But at the same time the Secretary was adamant in defending American subsidies to Communist dictatorships in Europe. We are led to believe, through some ambiguous treatment of reason, that aid to communism through the front door is less insensate than aid through the back alley. I should like to suggest that Mr. Rusk's tortured logic on that point elicited a cry of disdain from his audience.

There is little difference between the sale of a product directly to Cuba and the sale of a product to Cuba via Russia. Frenchmen know this as well as Americans. There is no difference in principle between the sale of buses to one Communist dictatorship and the sale of wheat to another. The only difference occurs in the details of the transaction.

Subsidizing communism, whether through peddling buses to Castro or wheat to Khrushchev for Castro, is underwriting the architects of our own destruction not only in Europe but also in the Western Hemisphere. The end result is the shoring up of dictatorships dedicated to the truncation of democratic thought and institutions.

Both the British and the United States are guilty of assisting a Communist regime which has triggered murder and violence in Panama, which has just established a "dark continent Cuba" on Zanzibar off the coast of Africa, and which is instigating mayhem throughout the Western World.

Adding frosting to our bitter cakes of duplicity, Castro returned from a brief vodka and caviar sojourn through the Soviet Union to denounced the "continued U.S. occupation" of Taiwan and Panama.

De Gaulle, like others of our allies, has watched our series of fantastic blunders the past 3 years—fantasies which included the withdrawal of our ballistic missiles from Turkey and our failure to utilize the bedrock of our foreign policy—the Monroe Doctrine—against communism's continued aggression in the Americas.

Mr. DOMINICK expressed his fears on the course of our ship of state in his speech at the Air War College. In his remarks—which, incidentally I was privileged to have entered in the CONGRESSIONAL RECORD, January 20—Senator DOMINICK noted that:

> We appear to be floundering and without direction. We are in a period which might be called our "fire drill diplomacy" where we race from one hotspot to another attempting to placate whoever is making new demands on us.
>
> Certainly our policy has not been consistent in all parts of the world. For example, we not only trip all over ourselves in a pell-mell rush to recognize the military junta which overthrew and assassinated the elected rulers of South Vietnam, but we encouraged and perhaps even materially aided the conspirators. Yet at the same time we withheld recognition of a military junta in the Dominican Republic * * * the inconsistency of our national policy toward such situations causes many of us to be deeply concerned.

Senator DOMINICK continued by pointing to one of the greatest deficits in America's ambivalent diplomacy when he said:

> Inconsistencies in our reaction to Communist moves throughout the world only play into communisms' hands, for they undermine the most important bond between our allies and ourselves, that of mutual respect and trust.

It is paradoxical that the Western World—the free world—which has access to a free press and unlimited information should be so confused as to the thrust and purpose of Uncle Sam's presence in the cold war.

Compare the ambiguities, the contradictions, and the anomalies of the administration's pronouncements and policies with this clear statement of purpose by the Chinese Communists:

> We have a very clear attitude. We will not trade with the United States because the U.S. Government is hostile to us.

To the Chinese Communists we are their enemy and their treatment of us is contingent upon that postulate.

Mr. President, for an administration which so frequently castigates conservatives in Congress for their isolationist policies, may I suggest that the liberals in power today have done more to isolate the United States from its own allies than any conservative movement since the League of Nations Charter was rejected.

We are facing a growing hostility in Latin America because of Cuba and because we have allowed ourselves to be backed into a corner in Panama. Negotiations are underway at the OAS Building, just a few blocks from the Capitol, in an attempt to reach an accord on whether to renegotiate the terms of America's presence in the Panama Canal Zone.

To our north, our friend and neighbor, Canada, whose integrity I do not for a moment doubt, has nevertheless indicated her support for Red China in the upcoming session of the United Nations when the perennial question of membership is raised.

To the east of us now we have France, still an ally, but an ally, as I have noted, with doubts; and now an ally with diplomatic ties to Communist China.

We have anti-Americanism burgeoning in the Far East. A coup has just toppled the CIA's handpicked regime in Vietnam, and we have pronouncements by the Secretary of Defense to the effect that "we are losing all the battles in Vietnam, but the situation is just fine, and we might win the war if we don't lose it."

The antipathy for the United States has extended for the first time even to American dollars, which heretofore have been exempt from the often heard cry: "Yankee go home."

Mr. President, the United States is the only nation in the free world which has the power within itself to shape the future of alliances formed to confine international communism to the slave state which spawned it. If the United States cannot marshal consensus in its allies; if it cannot cooperate with friends across the seas who singularly are impotent, but who collectively can turn the tide; if it cannot take cognizance of the lessons of Munich and the dangers of disunity in the face of conflict, then Monday's action by President de Gaulle will have been but a prelude to a cascade of irrational acts which are diametrically opposed to the interests of the free world.

The time may come when the United States will stand alone fending blows from left and from right, from back and from front, as we seek in vain to regain the alliances vitiated by our own policies. God forbid.

ADJOURNMENT TO MONDAY AT 10 A.M.

Mr. SMATHERS. Mr. President, I move that the Senate adjourn until 10 o'clock Monday morning.

The motion was agreed to; and (at 1 o'clock and 36 minutes p.m.) the Senate adjourned until Monday, February 3, 1964, at 10 a.m.

HOUSE OF REPRESENTATIVES

FRIDAY, JANUARY 31, 1964

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Galatians 6: 10: *As we have therefore opportunity let us do good unto all men.*

Eternal God, our Father, as we unite our hearts in prayer, may we earnestly covet and lay hold of those ideals and principles which will make for the health of our own individual souls and the spiritual welfare of all mankind.

Inspire us with a singlehearted devotion and dedication to seek that which is noble and true and morally right, for our own conscience bears clear and unmistakable testimony that this is the secret of peace and power.

Make us eager to accept the challenge and opportunity to be fellow workers in the task of bringing to fulfillment and fruition that great truth of mankind's spiritual solidarity.

May we be eager and willing to the very core of our being to build a more humane social order where all the members of the human family shall live together in peace and honor and seek one another's good and happiness.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Ratchford, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 9076. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of St. Louis.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 2265. An act to amend the Library Services Act in order to increase the amount of assistance under such act and to extend such assistance to nonrural areas.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a joint resolution of the following title:

H.J. Res. 875. Joint resolution making supplemental appropriations for the fiscal year ending June 30, 1964, for certain activities of the Department of Health, Education, and Welfare related to mental retardation, and for other purposes.

The message also announced that the Presiding Officer of the Senate, pursuant to Public Law 115, 78th Congress, entitled "An act to provide for the disposal of certain records of the U.S. Government," appointed Mr. JOHNSTON and Mr. CARLSON members of the joint select committee on the part of the Senate for the disposition of executive papers referred to in the report of the Archivist of the United States numbered 64–9.

ACHIEVEMENTS IN SPACE

Mr. ROUSH. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROUSH. Mr. Speaker, the past 2 days have seen the United States forge ahead in the race to conquer the universe through scientific achievement. On Wednesday we saw the successful launching of the Saturn rocket carrying into orbit around the earth 18 tons. This included the largest payload ever placed in orbit by man and exceeds the largest Russian payload by 11 tons. For several years now this Nation has been plagued with the uncomfortable knowledge that the Russians were ahead of us in the space effort. This has been based primarily on the fact that they had a greater lift capability. The United States is now ahead in lift capability and in every other phase of the space program. The very next day after this very significant achievement the United States sent into flight toward the moon its spacecraft Ranger. All seems to be going well and if the latter phases of the flight are as successful as the first we will in a few hours have closeup television pictures of the moon and its surface taken as Ranger approaches the moon and finally impacts on its surface. The Nation's thanks and gratitude should go to those dedicated men and women whose talent and endeavors have made these achievements possible.

PROVIDING FOR PRINTING OF ADDITIONAL COPIES OF SENATE REPORT NO. 830

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration I call up House Resolution 614 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That there be printed for the use of the House document room six thousand additional copies of Senate Report Numbered 830 submitted by the Senate Committee on Finance to accompany H.R. 8363, the Revenue Act of 1963.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE AMERICAN AGRICULTURAL ECONOMY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 210)

The SPEAKER laid before the House the following message from the President of the United States, which was read, referred to the Committee on Agriculture, and ordered to be printed:

To the Congress of the United States:

American agricultural economy is the most productive in the world. Its efficiency is constantly increasing. One American farmer today provides 25 domestic consumers and 4 people overseas with their total food and fiber needs. His output has increased 140 percent since the end of World War II, almost three times the gain in nonfarm productivity. The consumer, as a result, must spend a smaller percentage of his budget to meet his food needs than ever before in our history.

During the past 3 years a series of new farm programs and policies has achieved considerable progress toward three basic goals of this administration's agricultural policy, higher farm income, reduced farm surpluses and lower governmental costs.

Gross farm income in 1963 was $3.2 billion higher than in 1960, a gain of 8 percent.

Net income per farm rose during this same period from $2,961 to $3,425, a gain of 16 percent.

Government stocks of feed grains have declined by 22 million tons from their 1961 high of 85 million tons, enabling us to save $230 million a year on storage and other carrying charges.

Our agricultural exports in 1963 were $5.6 billion, the highest in history. They represented one-quarter of our total exports of goods and services.

Farm-dependent towns and industries have reflected this economic improvement. Bank deposits in agricultural counties have increased 20 percent; and farmers have been able to purchase an estimated $800 million more in farm equipment in the past 3 years than they would have been able to buy with a 1960 level of income. But statistical totals can be deceiving.

The income of the average farm family is still only 55 percent of that received by the average nonfarm family.

Steadily rising costs are still eating up the major portion of the increase in gross farm income, forcing upon the farmer a cruel cost-price squeeze. Almost one-half of our Nation's poor live in rural areas.

Farming communities have three times the proportion of dilapidated and substandard homes as the rest of the Nation.

Three-quarters of those employed as farm laborers earned less than $2,000 a year in cash wages from all sources.

Our task, therefore, is threefold: First, to maintain and improve farm income, strengthening the family farm in particular; second, to use our food abundance to raise standards of living both at home and around the world; and third, to accelerate the development and conservation of both material and human resources in rural America, where one-third of our citizens live.

Policies to strengthen the economy of rural and urban areas must go hand-in-hand. Prosperity on the farm gives impetus to prosperity in the city. New uses of land and water which are no longer required to produce food and fiber can serve the needs of both urban and rural residents.

The family farm is, and should remain, the key production unit. Exposed over the years to the most severe comparative and competitive tests, it has proved itself to be the best adapted to the American free enterprise system.

I. STRENGTHENING AMERICAN AGRICULTURE

The agricultural commodity programs developed during the past 30 years have served us well. They are now an indispensable bulwark of our agricultural economy. Without them our food supply would be much less secure than it is today.

But they are in need of improvement. New conditions arising from the technological revolution in agriculture present a special challenge—a challenge based upon the problems of abundance rather than scarcity.

Food and fiber policies must reflect the opportunities as well as the problems which accompany abundance. The need to consider our agriculture policies in this light has recently been reflected in joint resolutions introduced in both Houses of the Congress which would establish a bipartisan commission to study the food and fiber programs of the United States. The programs which I am proposing to the Congress in this message, reflect in turn, my own determination to view our agricultural abundance as an opportunity for achievement rather than a cause for alarm.

Those commodities requiring immediate attention are cotton, wheat, dairy products, sugar, and potatoes. At present, the programs for these foods and fibers serve neither the producers, the consumer, nor the taxpayer as well as they should.

1. Cotton: The needs of neither the cotton grower, the cotton handler, the cotton textile mill, nor the consumer are being satisfied by the existing legislation. The cotton industry as a whole is our second largest. More than 1 million people are engaged in growing cotton—an additional 1.5 million people are employed in the production of cotton cloth and cotton products for consumers—and additional millions work in firms which supply the goods, machinery and services to the industry.

Domestic cotton prices are much higher than world prices. Consequently, our

textile mills must pay more for cotton than their foreign competitors.

In addition, despite the fact that the 1963 acreage allotment was held to the statutory minimum, sharply increased farm yields, combined with a continuing loss of markets—as cotton products are displaced by imports and by other fibers—has caused a sharp rise in the inventories of cotton held by the Commodity Credit Corporation. The carryover on August 1 will be almost 2 million bales higher than it was last year—adding over $300 million to the cost of the cotton program. The carryover will be enough to supply our domestic needs for 18 months.

Several legislative proposals are now pending before the Congress to deal with this program. I recommend the enactment of legislation which will (1) make cotton more competitive with other fibers and eliminate the inequity of the present two-price system under which cotton used domestically is priced substantially higher than cotton sold for export; (2) make it possible for growers who desire to do so to produce cotton at world prices, without any subsidy, on a basis which will not add to our stocks; and (3) maintain the income of cotton growers while reducing excessive carryover stocks.

2. Wheat: Changes in the wheat program are urgently needed to check a drastic decline in producer income from the 1964 crop. In the absence of additional legislation it is estimated that wheat producers will receive between $500 million and $700 million less in 1964 than they did in 1963.

I recommend that the existing law be amended to permit producers to participate in a certificate program on a voluntary basis. The law should be designed to (1) raise the income of wheat growers substantially above what it would be in the absence of new legislation; (2) avoid increases in budgetary costs; (3) maintain the price of wheat at a level which will not increase the price of bread to the consumer, and (4) enable the United States to discharge its responsibilities and realize the benefits of the International Wheat Agreement.

In order to be effective for the 1964 wheat crop, the legislation must be enacted immediately. I urge prompt consideration and disposition of this legislation.

3. Dairy: Modern dairying requires a large capital investment and a high degree of technical skill. No industry is more important to our health. Yet income to many efficient farmers is cruelly low, and this year it was reduced considerably by drought in many areas. I believe that a system for voluntary adjustment of output is the key to a successful dairy program. I recommend legislation to (1) provide incentives to dairy farmers to reduce surplus production and (2) permit producers in Federal milk marketing order areas, through a "base excess plan" to reduce their production of milk without reducing their share of the class I market.

4. Sugar: The rise in sugar prices in 1963 reflected a reduction in world supplies. The Cuban crop was about one-half the pre-Castro level. Europe had two poor sugarbeet crops. But the fears voiced last year that the United States would be unable to obtain sufficient sugar proved groundless. Action by the Department of Agriculture assured sugar users an adequate supply and helped halt the price increases that attended heavy buying in anticipation of shortages.

However, the experience of the past year—and the fact that foreign sugar quotas expire at the end of 1964—highlight the need for some action at this session of Congress to assure ample supplies of sugar to consumers at fair prices.

I recommend the removal of marketing restrictions on the sale of domestically produced sugar during the calendar year 1964. This legislation will relieve the pressure on world market supplies at a time when these supplies are short.

The effectiveness of our present arrangements for foreign sugar procurement are under intensive study. On the basis of this study I shall—early in this session—make recommendations for remedial legislation.

5. Potatoes: Potato production is vulnerable to extreme price fluctuations resulting from wide variations in production. I recommend the enactment of legislation which will permit potato producers, if they so approve by referendum, to be given acreage allotment and marketing quotas aimed at stabilizing potato prices.

6. Strengthening cooperatives: Farmers should be encouraged to maintain their position in the marketplace through their own efforts, and to utilize cooperative organizations for this purpose. This has been the declared policy of the Congress for many years, and the extremely large capital investments required in modern farming have increased the need for such cooperatives to furnish harvesting, storing, processing, transporting, and marketing services, as well as electric and telephone services and other consumer needs, as a means of increasing net farm income. New legislation is needed to clarify the right of cooperatives to expand their operations by merger and acquisition. I shall shortly transmit to the Congress, also, legislation to provide additional credit facilities to permit rural cooperatives to assume additional responsibilities in the war to combat poverty.

7. Futures trading: Trading in futures contracts on commodity exchanges is an old and valuable method of providing essential pricing service to farmers, processors, and handlers. When adequately policed and protected, it is an essential means of shielding producers from the hazards of major price fluctuations. Yet it is clear that the present authority of the Secretary of Agriculture—which covers trading of an annual value of nearly $50 billion—is inadequate for effective supervision of the futures markets. Accordingly, I shall shortly transmit to the Congress legislation to remedy the defects of the present law without impairing the basic operations of commodity exchanges.

8. Shifting cropland to less intensive uses: One of the major problems facing American agriculture today involves the balance between land devoted to various crops and land used for other purposes. Cropland should be sufficient to produce all of the food and fiber we can expect to consume at home and export abroad; and all land not needed for this purpose should be shifted to other uses.

Rental contracts on 7.4 million acres of cropland that were placed in the conservation reserve between 1956 and 1960 expired December 31, 1963. That program was expensive, for it was designed—not to encourage long-term shifts of land to more desirable uses—but as a short-term measure. In its place I recommend a program which encourages the permanent transfer of excess cropland into trees, grass, wildlife habitat, outdoor recreation and other uses for which there is a growing public demand.

The Agricultural Act of 1962 authorized a pilot program of this kind under which $10 million is the maximum available. This limitation should be increased to $50 million.

9. Market power: There is one more pressing need if American agriculture is to be strengthened. The recent changes in the marketing structure for distribution of food are as revolutionary as those in production. There are some 200,000 retail grocery stores, but we know that $1 out of every $2 spent for groceries goes to fewer than 100 corporate, voluntary, or cooperative chains. Our information about how this greatly increased concentration of power is affecting farmers, handlers, and consumers is inadequate. The implications of other changes that take place as vertical integration and contract farming have not been fully explored. I urge that the Congress establish a bipartisan commission to study and appraise these changes so that farmers and business people may make appropriate adjustments and our Government may properly discharge its responsibility to consumers.

II. INCREASING THE USE OF AGRICULTURAL ABUNDANCE

1. Domestic food distribution programs: Inadequate and poorly balanced diets both accompany and contribute to low income and low productivity. We now distribute surplus foods to nearly 6 million needy Americans.

Under the pilot food stamp program, initiated administratively in 1961, needy people in 43 areas can increase their food purchases through regular commercial channels. I recommend legislation to place this program on a permanent basis and to make it more widely available.

The school lunch program now insures nutritious lunches in 68,000 schools to one-third of the schoolchildren of the Nation. Federal funds to be provided for the attack on poverty should be used to enable schools in eligible low-income areas to install food preparation facilities necessary to permit participation in the school lunch program.

As a part of our war on poverty, I am directing the Secretary of Agriculture to give special attention to our hardest-hit areas in all of the food distribution programs.

2. Food for peace: The immense efficiency of American agriculture is dramatically illustrated to the rest of the

world by our food-for-peace program. Under this unprecedented effort, the United States has supplied nearly $11 billion worth of food and fiber to over 100 countries. It is a powerful instrument of our foreign policy—directed toward peace, progress, freedom, and human dignity.

Food for peace serves many purposes: it feeds the hungry throughout the world; it is both symbolic of our concern for the less fortunate and concrete evidence of our own system's success; it furnishes resources for investment in the developing countries; and it opens up a productive outlet for current farm surplus while developing new commercial markets for future output.

Titles I and II of this law expire on December 31, 1964. Under title I—the principal authority for the food-for-peace program—sales of agricultural commodities are made for foreign currencies. Under title II, grants of food and other agricultural commodities are made to needy people abroad. I recommend extension of both of these titles for 5 years.

III. RURAL AREAS DEVELOPMENT

We have declared a relentless war on poverty in America. Our goal is not merely relief for the poverty stricken. We must undertake measures that will give the poor an opportunity to become productive citizens. No one weapon is enough. I shall shortly transmit to the Congress a special message on poverty. It will apply to both urban and rural people. The varied resources of many Federal agencies and of the State and local governments must be joined together. Better education, training, health services, and housing must be provided. Measures to increase the ability of our poorest citizens to become more productive must be devised, not as temporary relief, but as an investment in human resources.

The economic distress of many small communities is frequently different from its counterpart in the larger cities. There are many problems of those who use farming as a part-time occupation and must find their major livelihood in town; the special problems of the rural aged, and many others. I am asking the Secretary of Agriculture to increase the efforts of the Department in devising an effective attack on these problems, and to utilize the newly created Rural Development Committee in order to bring to bear the resources of other departments and services on these problems.

Much progress has been made under the Watershed Protection and Flood Prevention Act passed by the Congress 10 years ago. Watershed developments are now underway in more than 500 communities. Over 40 percent of these developments have multipurpose objectives, combining watershed protection and flood prevention with recreation, irrigation, fishing, and municipal water supply. These projects, though small, are of vital importance to rural areas. I recommend, therefore, that the Congress enact legislation to increase the project limitation of floodwater detention capacity from 5,000 acre-feet to 12,500 acre-feet.

Better use of our timber, wildlife, scenic, and other renewable resources of forest land presents a related and major challenge. Economically distressed areas often exist where there are heavy concentrations of forest land. Yet there is a great backlog of work to be done in these forests that can both provide employment and strengthen our economy. I am directing the Department of Agriculture to speed completion of a comprehensive review and appraisal of our timber resources, and to accelerate forest research to find new methods of wood utilization, better timber management techniques, improved fire protection, and more effective use of forest ranges.

More than a million rural families live in houses in such poor condition that they endanger the health and safety of the occupants. Another 3 million live in homes that need major repair. About one-third of our older citizens live on farms and in small country towns and villages—and too often their homes are poorly heated and lack bare necessities such as running water.

I renew the recommendation in the message on housing that the expiring authorization in the Housing Act of 1949 to insure loans on rental housing for the rural elderly be extended, and that the Congress authorize an insured loan program of reasonable dimensions in order to enlist the resources of private lenders in the construction of rural housing.

Among the poorest housed families are our 400,000 migratory farmworkers. They frequently live in shelters little better than the ditch-bank housing of the thirties. I recommend that the Congress enact legislation broadening the assistance available to provide better housing for migratory workers and other farm laborers.

IV. CONCLUSION

Our agricultural problems are deep-seated. Yet they are problems of abundance, not of scarcity. They tax our ingenuity, but they do not—unlike the situation in many other nations—form a bottleneck to economic growth. We must continue to seek methods for reconciling the needs of our farm families for a decent income with the necessity of making this abundance available at reasonable prices for domestic consumption and export. The improvements in farm commodity programs which I am recommending are a major step in that direction.

We must also look beyond agriculture to rural America as a whole. Fifty-five million Americans live in rural areas. Too many of them have not had an opportunity to acquire the education, skills, and earning power which their talents warrant. For too many of them the rural environment has proven a hindrance to a full life rather than the advantage it rightly can be. In this message, in my housing message, and in forthcoming special messages on poverty, education, and health, I am proposing a series of actions which will assist rural America to realize the promise of its potential—to carry out the Federal Government's responsibility to help these citizens help themselves. We have made great progress in recent years—but we can and must do better.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *January 31, 1964.*

PRESIDENT JOHNSON'S AGRICULTURE MESSAGE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentlewoman from Missouri [Mrs. SULLIVAN] may extend her remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, as the sponsor of H.R. 8107, the administration's bill to authorize a permanent, nationwide food stamp program, I am pleased that President Johnson has again expressed his strong interest in this legislation, as he did previously in his state of the Union message. The pilot food stamp plans now operating in 43 areas of the country, including St. Louis, were initiated by President Kennedy using section 32 funds, and if the program is to be expanded, we must now pass enabling legislation authorizing direct appropriations.

The pilot plans have proved to be efficient and effective programs for assuring well-rounded, nutritious and appetizing diets for our lowest income families. Those who qualify for the food stamp program shop in the regular neighborhood grocery stores, purchasing any domestic food items they want out of their monthly allotment of stamps. They must buy these stamps with the money they would normally be expected to spend for food out of their limited incomes; in turn, they receive a sufficient dollar value of stamps to enable them to buy an adequate diet for their family. This plan works, and it eliminates all of the many abuses and disadvantages of the direct distribution method, at no greater cost to the public.

As chairman of the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency, I am glad to note several other references in the President's agriculture message of great importance to urban consumers as well as to farmers. The need for sugar legislation is an example. Also, a complete review of trading in futures on all commodity exchanges is long overdue, as our study into sugar prices and speculation in sugar futures has been showing, and as the 1954 Federal Trade Commission investigation of coffee futures trading also proved, and as the recent scandal in soybeans further demonstrated.

Futures trading is undoubtedly important to an orderly marketing of many commodities, but wide gyrations in futures prices, often based on factors completely irrelevant to current supply situations, have cost consumers untold hundreds of millions of dollars in higher prices for food products.

PRESIDENT SHOWS CLEAR UNDERSTANDING OF FARM PROBLEMS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, I wish to commend the President of the United States on his farm message to the Congress, on his understanding of the problems of agriculture and rural America, and on his proposals to strengthen the economy of the rural as well as the urban areas of this land.

As the President so forthrightly stated, policies to strengthen the economy of rural and urban areas must go hand in hand.

And, as the Chief Executive so ably stated, the family farm is, and should remain, the key production unit of our agricultural economy.

I am glad to see, Mr. Speaker, that the President recognizes that our task is threefold—to maintain and improve farm income, to use our food abundance to raise standards of living at home and abroad, and to accelerate the development and conservation of both material and human resources in rural America.

President Johnson made a clear and unmistakable call for maintaining and strengthening and improving the agricultural commodity programs that have served us well for 30 years—the programs for cotton, wheat, dairy products, and sugar.

There are sharp differences, I know, in the Congress on just how to handle these commodity problems. But it is time for us all to close ranks and get together on solutions.

This Nation can ill afford to drift without adequate wheat legislation this year or to sit idly by and do nothing about cotton while we are losing our world markets and destroying our own domestic textile industry through inaction.

Mr. Speaker, I also am glad to see that the President recognizes the need for strengthening farm cooperatives, for stricter supervision of futures trading on the commodity exchanges, for the shifting of unneeded cropland to other uses, and for a study of farm marketing systems.

We should all join behind the President, too, in his program to increase the use of our agricultural abundance by expanding the food stamp program to aid the needy in our own country and by extending the food-for-peace program to help feed the hungry peoples of the world.

And, finally, Mr. Speaker, I commend our Chief Executive for his war on poverty in America, one in which we all must join, and for his call for increased rural areas development to strengthen the faltering economy of rural America.

The President's farm message was a high call for action by the Congress, Mr. Speaker, and I hope that here in the House of Representatives we can give full support to so worthy a program.

PRESIDENT'S MESSAGE REVEALS PROGRESS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. MATTHEWS] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MATTHEWS. Mr. Speaker, while the President's farm message gave primary emphasis to what must be accomplished in the days ahead, there is cause for satisfaction in his brief review of the accomplishments of this administration.

A gain of 16 percent in net income per farm since 1960, a 20-percent gain in bank deposits in agricultural counties, a reduction of $230 million a year in Government costs associated with surplus grain storage represents significant progress.

As we accelerate our efforts to make our food abundance more effectively serve both its producers and consumers, we are starting from a much higher plateau than that of January 1961. The job ahead is going to be easier because of this progress.

The President's call for congressional and public support of his farm message proposals carries a firm endorsement in the record of the past 3 years.

PRESIDENT LYNDON B. JOHNSON IN HIS MESSAGE ON AGRICULTURE URGED CONGRESS TO HELP HIS ADMINISTRATION FURTHER HELP THE NATION'S FARMERS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. MORRISON] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MORRISON. Mr. Speaker, the President has made quite clear his understanding of agriculture and its problems in his farm message delivered to Congress today.

In this message he has set forth realistic proposals to meet many of the problems agriculture faces in this year 1964 and in coming years. He has set forth a realistic and passable program that would move us forward toward a stronger agriculture, greater prosperity in the rural areas, and a stronger, better fed Nation.

But at the same time the President has set forth many of the problems facing agriculture. He also has enunciated the many gains agriculture has made since 1960. Too often, it seems to me, we forget that agriculture is one of America's success stories. Too often, it seems to me, the headlines seem to play up the difficulties agriculture is facing and the successes are sometimes forgotten.

It is a dramatic story that he tells—agriculture income up—net income per farm up—Government surpluses down—exports up—rural area economic improvement increasing.

Often, in our history, troubles in the rural agricultural areas have preceded national economic difficulties. The successes in agriculture since 1960, as set forth by the President, are one of the reasons that in the last 3 years our Nation has had increasing periods of prosperity.

When the farmer is in a healthy economic condition, this not only benefits him, it benefits our Nation as a whole.

The President shows that he realizes this and has proposed action that will protect the gains and bring future successes.

ANNUAL REPORT OF THE U.S. CIVIL SERVICE COMMISSION FOR FISCAL YEAR ENDED JUNE 30, 1963—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 263)

The SPEAKER laid before the House the following message from the President of the United States, which was read, referred to the Committee on Post Office and Civil Service, and ordered to be printed with illustrations:

To the Congress of the United States:

I transmit herewith the Annual Report of the U.S. Civil Service Commission for the fiscal year ended June 30, 1963.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *January 31, 1964.*

THE LATE HONORABLE FRANKLIN DELANO ROOSEVELT, FORMER PRESIDENT OF THE UNITED STATES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ALBERT. Mr. Speaker, as no citizen of the world could forget, this is the anniversary of the birthday of one of the great men of all time; one of the outstanding Presidents in the history of the United States. Franklin Delano Roosevelt, more than any other man in this century, has shaped the destiny of this country. Perhaps more than any man ever to serve as President, he has left his imprint on the future of the United States. His administration truly bridged the gap between 19th and 20th century America. His name and his influence are upon all of those great landmarks of progressive legislation designed for the welfare of his fellow man and designed to upgrade America in this generation and for generations to come. A man of extraordinary ability, he served

as President of the United States longer than any man in history. His contributions must rank along with those of Washington, Jefferson, Jackson, Lincoln, Wilson, Theodore Roosevelt, Cleveland, and McKinley. He was the idol of the American people. They loved him, because he served them so well.

GENERAL LEAVE TO EXTEND

Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks on this subject at this point in the RECORD and may have 5 legislative days in which to extend their remarks on the services of the late great President of the United States, Franklin Delano Roosevelt.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ROOSEVELT. Mr. Speaker, it is with great pleasure that I announce that there will be presented today to the world renowned entertainer, Eddie Cantor, a special commendation from the President of the United States. The Governor of California, the Honorable Edmund G. "Pat" Brown will present the award in the President's behalf at Mr. Cantor's home in Beverly Hills, Calif., this afternoon.

Though we are all aware and appreciative of Mr. Cantor's many talents in the entertainment field, he is particularly loved by many of us for his devotion to charitable organizations, and it is his extraordinary dedication in this area that the President has saluted in his commendation, which reads as follows:

The President of the United States of America awards this commendation to Eddie Cantor for distinguished service to the Nation. During his illustrious career Mr. Cantor has given unstintingly of his time, talent, and energy to humane causes of every description, lightening the personal burdens of the people of the Nation. His efforts have made possible major achievements in the constant struggle against disease and poverty. He has exemplified the spirit of selflessness, courage, and service that reflects the highest credit upon himself and his country. He has earned the esteem and admiration of his countrymen and the enduring gratitude of this Republic.

Today the Members of the House are wearing white carnations in honor of my father's birthday, which was yesterday. As you all know, father suffered severely from polio, and more than 25 years ago he called upon Mr. Cantor to help inaugurate a campaign to combat infantile paralysis. It was Eddie's suggestion that every American send in one dime to the White House, and he coined the phrase "March of Dimes." That first campaign in 1938 successfully focused public attention on the dreadful tragedies of the disease, and so the national foundation was born. Now polio has been virtually eradicated as a public health problem.

Mr. Cantor has well deserved and long earned this wonderful Presidential commendation. Still pending before the House is a joint resolution which I introduced during the last session to authorize the President to express the high esteem and appreciation of all the American people through the issuance of a gold medal to Eddie Cantor, and I am hopeful that the President's action will inspire the House to act favorably on House Joint Resolution 276 so that the public may share in paying tribute to Mr. Cantor for his generous expression of love to his fellow men.

Mr. HOLLAND. Mr. Speaker, I should like to join with my colleagues in commemoration of the birthday of our late President—Franklin Delano Roosevelt.

As one who served in the 77th session of the Congress—under his leadership—I have witnessed, over the years, the normal, everyday acceptance of many programs which he originated. Programs, I might add, which were considered—25 years ago—to be radical and unsound.

Yet, had he not had the courage and the foresight to initiate and get enacted into law the social security program, the Wagner Act, the Davis-Bacon Act, the Fair Labor Standards Act, and many others we still have on the books, where would this Nation of ours be today?

What shape would our economy be in, right now, if we did not have unemployment compensation, public assistance, social security pensions, and social security disability benefits, and public works programs—based on the pattern he established whereby the Federal Government steps in to create jobs through the construction of long-needed public improvements? Remember the NYA—it took our unemployed youth off the streets and made good citizens out of many of them.

Mr. Speaker, President Roosevelt helped this Nation—its people and its industries—to live with and prosper and benefit from the impact of the mass production line. We now must learn to live with, prosper and benefit from the impact of automation. We must find a method by which its benefits are enjoyed by the many—not just the few. And we must provide the facilities by which our people can be prepared to live and work in an industrial society which technology will develop, and one which we, right now, probably have difficulty in comprehending.

President Roosevelt was a dedicated man and an inspired leader.

He cannot return we know, but his acts and deeds can serve as an example for others to follow and I know many of us do.

Mr. ELLIOTT. Mr. Speaker, the life of Franklin D. Roosevelt was an inspiration to all America. He was the matchless leader who brought hope to the breast of the common people when there was great despair and economic desolation everywhere.

He gave our country the determination to go on and rebuild our free enterprise system with built-in protection to our citizens throughout the system.

When World War II came on, President Roosevelt turned his great leadership talents to leading our Nation and our people through that conflict to victory.

We salute his memory here today, and give thanks that we were privileged to feel the warmth and stability of his leadership.

PRIVILEGE OF THE HOUSE

Mr. HOLIFIELD. Mr. Speaker, I rise to a question of the privilege of the House.

The SPEAKER. The gentleman will state his question.

Mr. HOLIFIELD. Mr. Speaker, I have been subpenaed to appear before the District of Columbia Court of General Sessions, Domestic Relations Branch, to testify on the 3d day of February 1964, at 10 a.m., in the case of Mary McCormac Sheppard against Frank C. Sheppard.

Under the precedents of the House, I am unable to comply with this subpena without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send to the desk the subpena.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS, DOMESTIC RELATIONS BRANCH

MARY M'CORMAC SHEPPARD, PLAINTIFF, *v.* FRANK C. SHEPPARD, DEFENDANT

(Civil action No. D 1921–61)

To Congressman CHESTER HOLIFIELD, Room 1236, New House Office Building, Washington, D.C.:

You are hereby commanded to appear in this court to give testimony in the above-entitled cause on the 3d day of February 1964, at 10 o'clock a.m.

WALTER F. BRAMHALL,
Clerk of the Court.
By B. WAGNER,
Deputy Clerk.
JOHN GEYER TAUSIG,
Attorney for Defendant.

Mr. ALBERT. Mr. Speaker, I offer a resolution.

The Clerk read as follows:

H. RES. 617

Whereas Representative CHET HOLIFIELD, a Member of this House, has been served with a subpena to appear as a witness before the District of Columbia Court of General Sessions, Domestic Relations Branch, to testify at Washington, District of Columbia, on the third day of February 1964, in the case of Mary McCormac Sheppard against Frank C. Sheppard, Civil Action No. D 1921–63; and

Whereas by the privileges of this House no Member is authorized to appear and testify, but by order of the House: Therefore be it

Resolved, That Representative CHET HOLIFIELD is authorized to appear in response to the subpena of the District of Columbia Court of General Sessions, Domestic Relations Branch, in the case of Mary McCormac Sheppard against Frank C. Sheppard, at such time as when the House is not sitting in session; and be it further

Resolved, That as a respectful answer to the subpena a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 20]

Bates	McClory	Powell
Brademas	McIntire	Purcell
Cameron	May	Rhodes, Ariz.
Davis, Tenn.	Montoya	Roberts, Tex.
Ford	Moss	Rogers, Tex.
Fulton, Tenn.	Murray	St. George
Johnson, Calif.	O'Brien, Ill.	Staebler
King, N.Y.	Passman	Thompson, Tex.
Laird	Pepper	White
Lipscomb	Pool	Wright

The SPEAKER. On this rollcall 400 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CIVIL RIGHTS ACT OF 1963

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 616 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for four years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed ten hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any points of order the substitute amendment recommended by the Committee on the Judiciary now printed in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill, and shall be read by titles instead of by sections. It shall also be in order to consider, without the intervention of any point of order, the text of the bill H.R. 980, 88th Congress, as an amendment to the said committee substitute amendment. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

The SPEAKER. The gentleman from Indiana [Mr. MADDEN] is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, this Resolution No. 616 calls up for consideration H.R. 7152, the first really comprehensive civil rights legislation in our history.

This bill is composed of eight titles dealing with the major problems concerning constitutional rights of American citizens. The Judiciary Committee of the House has held hearings and has deliberated weeks and months on provisions set out in these major titles dealing with Title I: Voting; Title II: Public Accommodations; Title III: Public Facilities and Authority of the Attorney General To Intervene in Equal Protection Cases; Title IV: Education; Title V: Civil Rights Commission; Title VI: Nondiscrimination in Federally Assisted Programs; Title VII: Equal Employment Opportunities; and Title VIII: Registration and Voting Restrictions.

Yesterday, the Rules Committee completed hearings which started on January 9. This resolution calls for an open rule with 10 hours debate and waiving all points of orders. Amendments to be offered to this legislation will be to each separate title.

The Rules Committee heard the testimony of 40 Members of Congress, consisting of proponents and opponents. No doubt, we will hear during this debate numerous charges that this legislation is saturated with unconstitutional provisions, and if enacted, will build up a monumental bureaucracy. I do hope all Members will remain on the floor during these extended discussions and learn firsthand complete facts regarding the contents of this legislation so they can vote with intelligence and knowledge on various amendments, which, I presume, will be offered. I have great faith in the good judgment of the House Members that if any provisions of this bill are unconstitutional, they will be deleted or amended.

JUDICIARY COMMITTEE

The Judiciary Committee which reported this civil rights legislation is composed of 35 experienced and high-grade lawyers. These members are schooled in parliamentary and legislative procedure. I cannot imagine a majority of the Judiciary Committee, trained in the law, voting for legislation so filled with unconstitutional boobytraps as charged by some of the bill's opponents. I think the members of the Judiciary Committee should be commended for the outstanding work and sacrifice they have made in devoting weeks and months to this complicated legislation. This debate gives a great opportunity for the Members of the House to learn from these experienced lawyers regarding the contents of this bill as to constitutionality and effectiveness in extending protection to the constitutional rights of all our people.

Congressmen CELLER, MCCULLOCH, and ROGERS, Minority Leader HALLECK, Congressman BROWN, and other leaders on both sides, have worked in a highly unpartisan manner to succeed in bringing this legislation on the floor of the House. In my long service in Congress, this is the first major legislation on a controversial issue in my memory, wherein the provisions set out therein are almost identical with the platforms of the two major parties in the immediately preceding presidential election. This morning, I hold here in my hand copies of the 1960 platforms adopted at the Republican and Democratic National Conventions, and in a few minutes, I want to read some of the excerpts from both the Republican and Democratic planks on civil rights—the issues which both major parties used in their presidential and congressional campaigns of 1960.

For that reason, both major political parties are to be commended for supporting a major bill of this importance in carrying out their national party platforms.

VOTING

This legislation set up protections for all citizens to avail themselves of their basic right to vote in a free American election. This gives the disenfranchised citizens preferential and immediate remedies in courts so they can exercise their franchise, the greatest basic privilege possessed by all Americans.

SCHOOL DESEGREGATION

The bill provides constitutional remedies and financial assistance to aid school districts in the process of desegregation in compliance with the Constitution.

PUBLIC ACCOMMODATIONS

This legislation gives the Attorney General and the aggrieved citizen authority to institute a civil action in Federal court against any person who denies an individual, because of race, color, religion, or national origin, access to public transportation, interstate travel, public eating houses, hotels, admission to places of exhibition and public entertainment, and other establishments supported by public taxation. These provisions are limited in minor restrictions and exemptions considering the magnitude of the public operation as to size and scope of the business.

CIVIL RIGHTS COMMISSION

The Civil Rights Commission is to be made permanent and is authorized to serve as a national clearinghouse for information in respect to equal protection of the laws.

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Each Federal department or agency, empowered to extend financial assistance by way of grant, contract, or loan, is authorized to terminate or withhold financial assistance to any recipient who, on account of race, color, or national origin, excludes citizens from participation or benefits thereof.

EQUAL EMPLOYMENT OPPORTUNITY

This legislation provides that there shall be no discriminatory practice by employers having 25 or more employees in the hiring, promotion, compensation, or other employment practices of an employee or an individual seeking employment.

REGISTRATION AND VOTING STATISTICS

Under this title, the Secretary of Commerce, through the Bureau of the Census, is to conduct a survey and make a

compilation of voting statistics for the purpose of counting persons of voting age by race, color, and national origin, and for the determination of the extent to which such persons are registered to vote and individuals voting in any Federal election since January 1, 1960. This compilation shall be made in the geographical areas recommended by the Civil Rights Commission.

Some 30 States and numerous cities covering some two-thirds of this Nation's population have already enacted laws against discrimination in places of public accommodations—many in response to the recommendation of President Truman's Committee on Civil Rights in 1947. The failure of more States to take effective action makes it clear that this Federal legislation is necessary. The voluntary approach has been tried but has been found unable to eliminate widespread discrimination. Clearly, the Federal Government has both the power and the obligation to eliminate these discriminatory practices. Congress has been specifically empowered under the 14th amendment to enact legislation to make it a certainty that no State laws will sanction or give unequal protection or treatment to any of its citizens.

CONSTITUTIONALITY

The enactment of this legislation is clearly consistent with the Constitution and our concepts of both human rights and property rights. The courts have consistently rejected the theory that it is unconstitutional to interfere with the rights of citizens as they pertain to restrictions on voting laws, minimum wages, collective bargaining, air pollution, smoke control, pure food laws, and countless other measures designed to make certain that the use of private property must be utilized in conformity with the public interest.

Next week, a great number of our Members have set up a program to extoll President Abraham Lincoln on the anniversary of his birth. History reveals that in issuing his Emancipation Proclamation 100 years ago, he was accused by many of violating the property rights of slave owners. It is farfetched to believe that a man engaged in soliciting business from the American public for profit has an inherent right to exclude part of that public on the grounds of his race or color. Both human rights and property rights are basic foundations of our society, and the combination of both is highly essential to our economy.

CITIZENS IN WAR AND PEACE—WORLD WARS I AND II

Our Nation has fought to preserve liberty and freedom in a number of wars. The heroes who fought and died in World Wars I and II, as well as in the Korean war, saw no signs erected marked "White" or "Colored" in the trenches, foxholes, battleships, or in Flanders Field.

It is a deplorable situation that 100 years after the emancipation, it should be necessary for an American citizen to demonstrate in the streets for the opportunity to stop at a hotel or to eat at a lunch counter in the very department store where he is shopping, or to enter a motion picture house, recreation area, or other public places of accommodation on the same terms as any other customer.

The great struggle for civil liberties is a moral struggle demanding the effort of every American citizen who believes in democracy and freedom for themselves. They also should realize that freedom for minorities is indivisible with freedom for the majority and that unless everyone enjoys freedom, no one's freedom is secure. That is probably why all the major churches in the land, Protestant, Catholic, Jewish, and others, have endorsed the legislation which we are about to consider in Congress today.

CIVIL RIGHTS BILL OF 1960

In 1960, civil rights legislation was paralyzed and emasculated by a bitter and carefully calculated debate and filibuster.

It was severely weakened by amendments and its failure to provide sufficient power to enforce its provisions and to enact certain safeguards for other minority groups, and proved to be a weak watered-down bill in final form. It failed to make effective provisions for employment to improve the unemployment situation as it pertained to Negroes. In 1947 to 1951, the rate of unemployment for Negro men and women was 50 percent more than it was for whites.

This measure provides effective consideration for proper educational facilities for millions of the Negro children in America.

Both Presidents Kennedy, and Johnson, Eisenhower and Truman have urged the Congress for effective action on civil rights legislation. The time for citizenship equality for all Americans is here.

What greater event could come about in 1964 to 15 percent of our population than to realize that final victory is at hand. To be attained, not by demonstrations, sitdowns, and riots but by peaceful legislative processes under our Constitution. Both major political parties adopted strong, almost identical civil rights planks in their national platforms at their 1960 national conventions. To refresh the minds of our Members, I hereby read excerpts and pledges from the 1960 Republican and Democratic presidential election platform.

FROM 1960 REPUBLICAN PLATFORM CIVIL RIGHTS SECTION

Equality under law promises more than the equal right to vote and transcends mere relief from discrimination by Government. It becomes a reality only when all persons have equal opportunity, without distinction of race, religion, color or national origin, to acquire the essentials of life—housing, education, and employment.

We supported the position of the Negro schoolchildren before the Supreme Court. We believe the Supreme Court school decision should be carried out in accordance with the mandate of the Court.

The President's Committee on Government Contracts, under the chairmanship of Vice President Nixon, has become an impressive force for the elimination of discriminatory employment practices of private companies that do business with the Government.

Other important achievements include initial steps toward the elimination of segregation in federally aided housing; the establishment of the Civil Rights Division of the Department of Justice, which enforces Federal civil rights laws; and the appointment of the bipartisan Civil Rights Commission, which has prepared a significant report that lays the groundwork for further legislative action and progress.

We pledge: continued vigorous enforcement of the civil rights laws to guarantee the right to vote to all citizens in all areas of the country.

Legislation to provide that the completion of six primary grades in a State accredited school is conclusive evidence of literacy for voting purposes.

The Department of Justice will continue its vigorous support of court orders for school desegregation. Desegregation suits now pending involve at least 39 school districts. Those suits and others already concluded will affect most major cities in which school segregation is being practiced.

We will propose legislation to authorize the Attorney General to bring actions for school desegregation in the name of the United States in appropriate cases, as when economic coercion or threat of physical harm is used to deter persons from going to court to establish their rights.

Our continuing support of the President's proposal, to extend Federal aid and technical assistance to schools which in good faith attempted to desegregate.

We pledge continued support for legislation to establish a Commission on Equal Job Opportunity to make permanent and to expand with legislative backing the excellent work being performed by the President's Committee on Government Contracts.

We pledge action to prohibit discrimination in housing constructed with the aid of Federal subsidies.

We pledge removal of any vestige of discrimination in the operation of Federal facilities or procedures which may at any time be found.

Opposition to the use of Federal funds for the construction of segregated community facilities.

Action to insure that public transportation and other Government-authorized services shall be free from segregation.

We pledge our best effort to change present rule 22 of the Senate and other appropriate congressional procedures that often make unattainable proper legislative implementation of constitutional guarantees.

We reaffirm the constitutional right of peaceable assembly to protest discrimination by private businessmen who have abandoned discriminatory practices in retail establishments, and we urge others to follow their example.

Finally, we recognize that civil rights is a responsibility not only of States and localities; it is a national problem and a national responsibility. The Federal Government should take the initiative in promoting intergroup conferences among those who, in their communities, are earnestly seeking solutions of the complex problems of desegregation—to the end that closed channels of communication may be opened, tensions eased, and a cooperative solution of local problems may be sought.

In summary, we pledge the full use of the power, resources, and leadership of the Federal Government to eliminate discrimination based on race, color, religion, or national origin and to encourage understanding and good will among all races and creeds.

The Democratic presidential election platform of 1960 contains in general similar planks and pledges like the Republican platform of 1960, and I shall not take the time of the Members in reading the various excerpts and planks in order to avoid repetition.

Mr. Speaker, I reserve the balance of my time.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield to the gentleman from Colorado.

Mr. ASPINALL. I do not believe I am oversensitive about the jurisdiction of the committee I have the honor to chairman, but will the gentleman point out how they lifted H.R. 980, which has been assigned to my committee by the Speaker of the House, and made it in order as an amendment to H.R. 7152 without any consideration by the committee having jurisdiction?

Mr. MADDEN. I would like to explain, but I promised time to others.

Mr. ASPINALL. That is the most inclusive and enlightening explanation that I have ever had of any question that I have asked in all seriousness.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. POFF].

Mr. POFF. Mr. Speaker, I will not address myself to the substance of the bill, nor will I undertake to evaluate the political implications involved. We are now discussing the rule written to govern the time and terms of debate on this legislation. It occurs to me that we might also usefully consider some of the unwritten rules which should govern our conduct in the course of debate. The subject of the debate is one which inescapably stirs the deepest emotions of men who hold the strongest convictions. No other kind of men populate this Chamber, because the American people do not choose as their representatives men without conscience or men without spirit.

Mr. Speaker, there is no reason why this debate should not be spirited; there is every reason why spirit should be tempered with conscience. No unconscionable comment uttered by any proponent or opponent of the bill can be condoned as the offspring of uncontrollable zeal. No scurrilous accusation made by any opponent or proponent can be pardoned as the accidental byproduct of honest emotion. No unworthy deed committed by any proponent or opponent can be justified as a means to a worthy end. No unkind word said by any proponent or opponent, the privilege of revising and extending notwithstanding, can ever be fully unsaid.

There is no reason why any proponent or opponent should challenge the moral integrity or impugn the motives of any colleague with whom he disagrees; there is every reason why each should acknowledge the sincerity and respect the purpose of the other. And this is not only because the men on both sides of this great issue are honest men and strong men, but because this issue, distilled to its most elemental components, involves a conflict between one thing one man calls "civil rights" and another thing another man calls "personal liberty." More accurately, the fundamental issue is how far, in obedience to the mandates and injunctions of the Constitution, one of these things can trespass upon the domain of the other. Said differently, what we are debating is what lawyers call the "metes and bounds" of each domain.

Men of good will, men of intellectual honesty can legitimately disagree as to where lies the boundary between these two domains. But only the doctrine of absolution can lead one man to contend that the location of the boundary is so perfect and precise that it separates, in its meanderings, always and altogether, right from wrong, love from hate and patriotism from chauvinism.

So, Mr. Speaker, as we begin to survey this boundary line, it would serve the purposes of this debate well, promote sensible solutions to the problems to which this legislation is addressed and reflect credit upon this great House as an institution and its Members as individuals if our markers are stable, our guideposts are true and our bearings are straight.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule because I believe it to be a good rule, the best rule that the Committee on Rules, of which I am a member, could possibly submit to this House. It is a rule that would permit each and every Member of this body to have a full and fair opportunity to speak his or her piece in connection with this legislation, whether it be on an amendment under the 5-minute rule or whether it be in general debate.

The question of civil rights legislation has been before this body for a long, long time.

Being a realist and—as has been said by a Member far wiser than myself—knowing the facts of life, I appreciate that there is much controversy connected with this legislation. Many differences of opinion are held by various individuals and Members of this House. Those differences of opinion I believe are based upon honest belief. Certainly they are differences of opinion to which every Member of this body is entitled under our Constitution, our laws, and our methods of operating this, the greatest legislative body in the world.

At the beginning of the present Congress, January a year ago, legislation was introduced by quite a few Members to deal with the various issues arising from the civil rights problem. Since that time other legislative bills have been introduced.

I will accept any correction if I am wrong, but I believe that early in May the Judiciary Committee of the House started hearings. That committee is made up of 35 able lawyers. Whenever you get more than two lawyers together you can always get an argument on any matter. Hearings or discussions were started about that time in the committee.

The then President of the United States—now, the martyred President—a man of different political affiliation from my own, submitted a civil rights message to the Congress and proposed the enactment of certain legislation which he submitted at the same time.

Hearings were held. Many changes were made in the Judiciary Committee. A subcommittee brought out a bill on civil rights. That action was followed, before the full committee passed upon the subcommittee measure, by conferences of committee members and others at the White House.

I am reciting these facts so that we may have a proper perspective of the problem now before us.

New legislation was brought before the Judiciary Committee and reported, I understand, without any lengthy hearings, to say the least.

Finally, in late November, prior to the Thanksgiving recess, the great Committee on the Judiciary submitted its report and a bill which it had voted on in late October to the Rules Committee of this House.

For many weeks the Rules Committee—having no jurisdiction whatsoever over the legislation, because it was not before the Rules Committee at that time—was criticized and condemned across the length, breadth, width, and depth of this land on the theory, which was of course false, that in the view of many citizens the Rules Committee was blocking consideration of the measure. That was, of course, absolutely contrary to the fact. There was no opportunity to hold full and extensive hearings in the Rules Committee on the legislation before the end of the last session of Congress in December.

I understand that some 60 or 70 Members of this House—each of whom has a right to express his view and opinion before the Rules Committee in connection with the issuance of any rule on any piece of pending legislation which may come before the committee—expressed interest in presenting views.

There was no opportunity before the end of the first session to hold hearings and to give an opportunity to those individuals who wished to be heard. So, later it was agreed that as soon as the new session, the 2d session of the 88th Congress, began, hearings would be scheduled in the Committee on Rules. These hearings started on January 9 and they were held in the morning and they were held in the afternoon. As the gentleman from Indiana [Mr. MADDEN] has told you, scores of witnesses were heard. The hearings were conducted on a very high level. A complete stenographic report was made of all testimony taken and it will be printed. All testimony taken before the Committee on Rules will be available to anyone who wishes to see it. Never in my 22 years on the Committee on Rules have I known of a time when more attention and more consideration was given in a dignified manner to a rule or to the issues of a rule than on this particular legislation.

I want to say that despite the differences of opinion that might have existed within the committee itself, as well as within the House, no member of that committee or of this body said or did anything that reflected adversely in any way upon the dignity of the House of Representatives or of its committees.

I want to congratulate the witnesses on both sides of this issue, those men who appeared to testify before the Committee on Rules, for the way that they presented their views for the committee's consideration.

The committee, in the same spirit of fairness, in an attempt to do only that which was right in their opinion and in

the best interests of good legislative procedure, have voted out this rule.

The rule provides for 10 hours of general debate, which I understand under an agreement with the leadership will be concluded sometime tomorrow evening, and that on next Monday, when the House convenes, the bill will be read for amendment under the 5-minute rule.

Let me point out, if I may, that this rule also makes in order the substitute bill to be considered as if it were the original bill, that is, the substitute measure that was substituted by the Committee on the Judiciary for the other bill that has originally been before the committee without any other intervening motion of any kind.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New York.

Mr. CELLER. I am happy to have the gentleman yield, because I want to take this opportunity to say that I personally, as chairman of the Committee on the Judiciary, and I am sure I speak for my counterpart on the Republican side, the gentleman from Ohio [Mr. McCULLOCH], and for all members of the Committee on the Judiciary, am very grateful to Brother BROWN, and to the chairman of the Committee on Rules, the gentleman from Virginia [Mr. SMITH], because he kept his word, he kept the faith. He said he would grant a rule, and a rule was granted. Therefore, we are grateful to him.

Mr. BROWN of Ohio. May I reply to that simply by saying that the great chairman of the great Committee on Rules who in his own right is a great man—and I refer to the gentleman from Virginia, Judge SMITH—conducted these hearings in an absolutely fair manner. He kept every promise and every pledge that he had made—that every Member of the House would have an opportunity to be heard by the committee and to be treated with the utmost respect when they appeared before that committee; and that the committee itself would be permitted to work its will, whether he might agree or disagree with the action of the majority of the committee. I personally am grateful to the chairman of the Committee on Rules and appreciative of the statesmanship that he demonstrated in connection with the hearings on this controversial legislation.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Indiana [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, I wish to join in the statement of the distinguished gentleman from Ohio regarding a member of the committee.

Mr. ASPINALL. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman.

Mr. ASPINALL. Mr. Speaker, can the gentleman from Ohio explain how H.R. 980, a bill in the Committee on Interior and Insular Affairs, on which there has been no consideration, no hearings whatsoever, becomes a part of this rule?

Mr. BROWN of Ohio. No, I cannot explain that; I presume the Committee on the Judiciary can. Is that the Indian amendment?

Mr. ASPINALL. This is the Indian amendment.

Mr. BROWN of Ohio Yes; I forgot all about that. I forgot about it because I was accused of being against the Indians. In other words, I stood with the gentleman from Colorado in the attempt to protect the committee from the amendment which I believed did not have any business under the rule. I cannot explain why other Members believed that it should be a part of the rule. I cannot answer for anyone but myself and sometimes I am hard put to answer for myself.

Mr. ASPINALL. Mr. Speaker, would my colleague say that that would be the equivalent of the Powell amendment on some education bills?

Mr BROWN of Ohio. I do not know. I have heard of the Powell amendment, and I presume most Members have at times. I cannot speak for the Indians because they left Ohio a long, long time ago.

Mr. SMITH of Virginia. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I am happy to yield to my distinguished chairman of the committee.

Mr. SMITH of Virginia. While the gentleman is explaining how the Indian bill got into the rule, will he also explain how the FEPC bill which is under the jurisdiction, and has been under the jurisdiction, of the Committee on Education and Labor, got into this bill?

Mr. BROWN of Ohio. I can explain that very readily to my dear chairman. The Committee on the Judiciary is controlled not by me, or my party, but by the gentleman's party, and that committee is the committee which put it into this bill. I did not. They put it in there. The gentleman from Virginia will have to ask the Judiciary Committee to explain that. I do not want to be responsible for the actions of other people. I have difficulty sometimes being responsible for my own actions.

Mr. SMITH of Virginia. I just did not want it to pass unnoticed.

Mr. BROWN of Ohio. Mr. Speaker, let us proceed to discuss the rule. Under the rule points of order are waived. Somebody may ask why points of order are waived. The answer is a very simple one, in my opinion; and that is that they do not want to take legislation of this importance and make it subject to points of order on some technical matter. This bill is filled with technicalities and a point of order might strike out a title or a section or, for that matter, the entire bill, just by the action of one individual. Instead, they wanted to permit the House to work its will by majority rule through waiving points of order; because, if there is any question that comes up that would be subject to a point of order, it could be stricken, it could be amended, it could be changed, anything anyone wanted to do with it could be done by majority vote. And after all, we do say that under our American system the majority shall rule. I do remember one time in the early morning hours in 1960 when I was sorry that we had that rule of majority control, but it does happen that way in America and I believe it ought to happen that way in the House. We ought not to take a chance that some technicality in this bill could be objected to which would result either in striking out the entire bill and killing it, which would compel us to go through this Gethsemane again in another year, or to strike out some important title or section of the bill.

Instead if such action is desired by the majority of the House of Representatives, then let it be done by a vote of the majority.

This rule protects in every way the right of all individuals to participate in the debate and in the offering of amendments. Let me go a bit further, if I may. There has been an agreement made between the leadership on both sides of the aisle, and between those who are opponents and proponents of this legislation, that no move shall be made—and I hope none will be made—to shut off or to close off debate on this bill, when it is being considered under the 5-minute rule, until and unless every Member of the House who may desire to do so will have the full opportunity to offer and to discuss any amendment that he may wish to submit for consideration.

I also understand that every attempt will be made not to waste the time of the Congress by unnecessary quorum calls or by filibustering tactics, but, instead, by carrying on the same high method of procedure, the same good conduct that existed in the hearings before the Rules Committee, this House will again demonstrate to the world that legislation of this importance—and I think the eyes of all America will be on the House when this bill is considered next week—is being considered in the cool light of reasoning, prayerfully, justly, and fully.

If I may I would like to appeal to the Membership of the House for cooperation to that end, regardless of whether you are for or against the bill, for or against any amendment or any change in it, that we do conduct this debate on a high plane, that we can at least say to our children and to our grandchildren, we participated in one of the great debates of modern American history and we did it as statesmen and not as quarreling individuals.

Mr. ROGERS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Colorado.

Mr. ROGERS of Colorado. I want to make clear the question that you have explained about a full debate on amendments and any attempt to cut them off. Does that mean so long as anybody stands up and wants to discuss an amendment the chairman of our committee should not act?

Mr. BROWN of Ohio. The chairman of your Committee on the Judiciary has stated he intends to divide the time that is available to him between the proponents and opponents of this legislation which is certainly a fair action on his part. I also understand that the

gentleman who will control the time on the minority side, the gentleman from Ohio [Mr. McCULLOCH], expects to do practically the same thing. He will recognize Members on both sides.

Mr. ROGERS of Colorado. The point is, when we get into consideration under the 5-minute rule and an amendment is offered, and it is debated for 1 hour or 2 hours, can the time be limited?

Mr. BROWN of Ohio. I think you can limit time. The bill will be read title by title, as I understand it.

But I believe that after all debate has been exhausted, while there will always be the right to be heard on an amendment, you can control the length of time that an amendment may be discussed, within reason.

Mr. ROGERS of Colorado. Then I would think that the answer of the gentleman is that if there has been a full discussion of the amendment, then the Chairman may seek to limit the debate?

Mr. BROWN of Ohio. That is exactly the intent and purpose of this rule and the intent and purpose of the agreement the leadership of this House has in mind, that there be a full and a decent opportunity for everybody to be heard.

Mr. ROGERS of Colorado. And being heard would not be contrary to the usual procedure.

Mr. BROWN of Ohio. Except that, of course, you always have a right to bring an end to delaying tactics if it becomes a delaying tactic, rather than an honest effort to have a proper amendment considered.

Mr. McCULLOCH. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. McCULLOCH. The rule meets our approval. It makes in order a good bill, the passage of which is necessary without further unnecessary delay. I hope the rule is adopted unanimously.

Mr. BROWN of Ohio. I do hope that the rule will be adopted without any intervening difficulty.

Mr. MADDEN. Mr. Speaker, I yield the remainder of the time to the gentleman from Mississippi [Mr. COLMER].

Mr. COLMER. Mr. Speaker, I possibly will not have another opportunity to speak to you on this most important and far-reaching bill, a bill to which I have given considered, thorough, and meticulous consideration. Now, if I may have your attention, realizing as I do, and as you must, that no man in this House far superior though he may be in intellect to an ordinary Member like me, could intelligently discuss this highly technical bill in 15 minutes. Therefore, I can only hope to touch upon some of the highlights and to call your exploring minds to the consideration of some of these provisions that I regard as most vicious assaults upon the Constitution of the United States and our great heritage, its institutions.

Let me at the outset, if I may, say that I wish I had the power to set the ground rules for the consideration of this debate. If I could, I would have at least two fundamental rules.

One of them would be that we stay on the floor of this House, every Member, regardless of party alinements and previous inclinations, and listen to the debate both on the bill and proposed amendments. Hear both sides of the issue, and consider what is proposed, in this revolutionary manner, to be done to all of the freedom-loving people of this country.

The other would be that whatever temptation there might be to wave the flag of sectionalism would be taboo.

For while it may be that some people have in mind that this is a loaded pistol aimed at a particular section of this country, from which I have the honor to come, I point out to you and I challenge you to deny—after you have considered this bill, if it is not also a scattergun that reaches every section of this country from north to south and from east to west.

So let us approach this consideration—let us approach this bill with all of its ramifications, not as southerners, not as so-called northerners or westerners or easterners. But I beseech you in the name of the Supreme Being, please let us consider this bill upon its merits, upon its constitutionality and upon the effect that it is going to have upon the future generations of this country who will follow you and me.

Oh, yes, I know, I am realistic too—I know of the political implications. I have had private conversations—and, of course, I would not call names—with many of you. I know how you feel about this legislation, those of you in high and those of you in low places in this House. I know of the popular political and sectional vote appeal of this legislation. But all I am asking you to do is to consider it upon its merits—to listen to the great constitutional lawyers on this committee—yes, on both sides—and weigh and consider the matter for yourself.

You know, you and I—and some of us have been here a long time and some of us have been here a short time—you and I prize these seats in this Congress of the United States. But our stay here is but transitory.

We sit here today—tomorrow we are gone. Someone else comes in to take our place. In other words, we are like the little bird which flies into the door of our living room on a summer's day. He flits about the room for a few seconds and then flies out an open window.

I ask you, as I have asked myself on many occasions, is the cherished privilege of sitting in this body worth the price that we are often asked to pay?

Every one of us—some of us 15 times, some of us more and some of us less—have stood in this House and held our hand to high heaven and obligated ourselves, in most solemn covenant with God to uphold the Constitution of the United States. Now I say to you, this bill, if not in whole, at least in part is unconstitutional, and I challenge you again to listen to the debate and determine that for yourselves.

I do not impugn the motives of anyone. I do not intend to reflect upon anyone. All I ask is for your honest and sincere consideration.

I have lived with this bill for some time myself during the past several weeks. I wish I had time to point out some of the unconstitutional proposals which have been made. I wish I had the time to point out the assaults being made upon the Constitution of the United States and our way of life. When I talk about "our way of life" I am talking about the American way of life as guaranteed to us in the Constitution by the Founding Fathers.

I do not have sufficient time to do so here. They will be pointed out by members of the Judiciary Committee.

My friends, consider the public accommodations title of the bill. There are those who say that the Supreme Court's ruling is the law of the land. I challenge the constitutional lawyers on the other side—on whichever side of the aisle they sit—to deny that the law of the land today is that an innkeeper cannot be required to take in somebody he does not want to take in, regardless of the color of his skin.

The Congress, in the hysteria which followed the fratricidal War Between the States, attempted to write such a provision. Congress wrote a statute in very much the same language we have in this bill. That was in 1875.

Eight years later, when some of the hysteria had passed, the Supreme Court of the United States jerked the Congress back on its feet and said that law was unconstitutional. I do not have the time to develop that case, either.

Let me remind Members of another thing. What is proposed to be done? It is proposed to grant the most extraordinary powers to the executive department.

I appeal to you conservatives. I point particularly to some of my Republican brethren, who regard themselves as conservative. I wish you would consider what we are asked to do here by way of granting power to the executive department. Is there anyone who has studied the bill who can deny that under the terms of the bill—as pointed out by the gentleman from Virginia [Mr. POFF] and the gentleman from Florida [Mr. CRAMER] in the report; and as shown on page 104 of the report—power would be given not only to the President and to the Attorney General but, more than that, given to every bureaucrat in the executive department to cut off all Federal aid from your hometown, from your county, and from your State.

Of course, the advocates of this legislation are in favor of helping the Negro. So am I; but the fact that those people would be cut off apparently makes no difference to them.

Yes, we are asked to delegate to some man in a department, wherever he may be in all of the agencies of the Government, the power to cut off the school lunch program, the Federal aid to education program, aid to the farmers, to the bankers, to every citizen who is the beneficiary in any way of Federal assistance from this Government.

The Civil Rights Commission in its 1963 report had recommended that the President have the powers conferred in this title VI. At his April 17 press conference, the late President Kennedy was asked to comment on that recommendation. In response the President said:

I don't have the power to cut off aid in a general way as was proposed by the Civil

Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power.

Yet "that kind of power" is given the President of the United States in title VI of this bill.

Mr. Speaker, in this connection may I point out that if this legislation was bad in the Kennedy administration, it is bad in the Johnson administration.

What do you do here? You put $100 billion, the annual budget, in the hands of the bureaucrats of this Government to say when the water will be cut off from your hometown or your district or your State. If you want to do that, go ahead with it. However, I finish where I started. I know some of the facts of life, too. I know—I hate to say this, but I am going to say it because some things ought to be said—I know when this bill is starting to be considered here, up to this time, there has not been 10 percent of the Members of this House who have read it. I know that when it is over many of you will not have read it.

Really, you are asked to legislate by labels. You are told that this is a moderate or watered down bill. I can assure you that it is neither moderate nor watered down. It is in reality as stringent as the original committee bill. In some instances, it is even stronger.

I hate to say what I am going to say now, but I think it ought to be said. I wish it were possible to have a secret ballot on this bill to see just what the real status of it is. I doubt that it would receive 20 percent of the votes.

Mr. Speaker, finally I ask, what is all this furor about?

What is the rush?

Why was this bill now under consideration rammed through the Judiciary Committee in a star chamber proceeding without debate, without an opportunity to offer amendments and with only a 2-minute discusson, 1 minute for Chairman CELLER and 1 minute for his counterpart, Congressman MCCULLOCH?

Why was all the pressure placed on the Rules Committee to clear the bill to the floor of the House with a minimum of hearings?

Why did the chairman of the Judiciary Committee file a petition to discharge the Rules Committee from consideration of the bill so prematurely, while at the same time fail to have hearings on the bill before his committee that would override the Supreme Court's decision permitting prayer in the schools of the land?

I ask, Mr. Speaker, is all of this done out of fear? Is the Congress of the United States to yield to threats of further demonstrations by minority group leaders—blackmail, if you please?

I ask you in all candor, to what end will this bring us? Is the Congress to comply by legislation with the demands and even riots of every organized minority group in the country?

We are confronted today with demonstrations and riots in the Canal Zone. Are the President and the Congress to surrender to unreasonable demands in that area?

If we are prepared to follow that course of appeasement, then it would appear that the end of this glorious young Republic is near.

The SPEAKER. The time of the gentleman from Mississippi has expired.

The gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. MEADER], a member of the committee.

Mr. MEADER. Mr. Speaker, I support this rule, which will bring before the House what is probably the most difficult, the most complicated, the most controversial and emotional piece of legislation which has been considered by this body in the 14 years in which I have served in it. I am glad that there is opportunity for debate and amendment. I hope that the Members will take this measure seriously and here, in the Committee of the Whole, write a good, workable, reasonable, and fair civil rights bill of 1964.

Reference was made by the previous speaker to the hearings held by the Committee on Rules. The first volume of those hearings is available now containing the testimony of the three first witnesses, the chairman of the Judiciary Committee, the gentleman from New York [Mr. CELLER], the ranking minority member of the Committee on the Judiciary, the gentleman from Ohio [Mr. MCCULLOCH], and the gentleman from Louisiana [Mr. WILLIS]. I understand the remainder of the hearings are at the printer's and will be available as soon as the Printing Office can get them to us. I urge the Members to study the hearings before the Committee on Rules and the questions that were raised, and then to study the bill, and then to study the report.

My own views, based upon a year's work on this bill, are contained in the committee report on pages 43 to 59. I urge that special attention be given to two of the most difficult titles of this bill. I refer to title II on public accommodations and title VI, withholding of funds.

Title VI cuts across the board on every financial assistance program by the Federal Government and I daresay that after you read the report and after you read the hearings of the Rules Committee you will agree that under its present phraseology nobody knows what title VI means and nobody knows what damage it will do to a multitude of widely varying Federal financial assistance programs. I hope that Members will stay on the floor during the consideration of the bill under the 5-minute rule that we may improve and perfect this bill by adopting proper amendments.

Mr. MCINTIRE. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. MCINTIRE. Mr. Speaker, the civil rights bill that is before this body today is vital legislation because it is concerned with the rights of individuals.

It is my personal opinion that the time is long overdue when legislation action should be taken to secure the rights of all citizens. We have talked long and hard on the subject, and the time for action is now.

The simple truth of the matter is that in our first-class society of America there should be no room for second-class citizens—all citizens should have first-class rights.

In the light of this I want to say that my hearty approval is extended toward bringing this civil rights legislation before the House of Representatives for its prompt and detailed deliberation.

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

IN COMMITTEE OF THE WHOLE

Mr. CELLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for 4 years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7152, with Mr. KEOGH in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. CELLER. Mr. Chairman, at the outset may I say that I shall yield one-half of my time, namely, 2½ hours, to the distinguished gentleman from Louisiana [Mr. WILLIS].

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Louisiana.

Mr. WILLIS. Mr. Chairman, I want to express to the gentleman my appreciation, and the appreciation of others who feel about the legislation as I do, for this very gracious treatment.

Mr. CELLER. Mr. Chairman, I yield myself 40 minutes.

Mr. Chairman, this is an opportunity for which we have been anxiously awaiting. You know, the Lord's best gifts to us are not things, but opportunities, and we now have bestowed upon us a golden opportunity to do a great thing.

Furthermore, it was John Milton who said "Peace hath her victories no less renowned than war."

I fervently believe that in the passage of this civil rights bill we are participating in a historic event in peacetime, an event that will shine in our history. It will be a triumph as great as many a marshal's victory. It will bring happiness to 20 million of our people and will impart to a great many of the rest of us the comfort of having done our duty.

I will say this: The onward march of civil rights cannot be thwarted, it cannot be abated. There is an old saying: "Some may cheer and some may leer, but the caravan moves on."

However, I am somewhat at a loss to understand why there was made impervious to a point of order as to germaneness the provisions concerning industries on Indian reservations with tax exemptions, the contents of H.R. 980. Those provisions in the bill, to my mind, are about as incongruous as the Devil in the cathedral. The bill was referred to the Committee on Interior and Insular Affairs, and it is passing strange that we are now compelled to vote on it. In the language of Churchill, some explanation is needed, because this is extremely strange, and in the language of Churchill it is like an enigma inside a riddle wrapped in mystery. I hope we will get some explanation before the debate is over.

Mr. Chairman, what we are considering this day in effect is a bill of particulars on a petition in the language of our Constitution for a redress of grievances. The grievances are real and genuine, the proof is in, the gathering of evidence has gone on for over a century.

The legislation before you seeks only to honor the constitutional guarantees of equality under law for all. It bestows no preferences on any one group, what it does do is to place into balance the scales of justice so that the living force of our Constitution shall apply to all people, not only to those who by accident of birth were born with white skins.

Perhaps what we are really talking about is the life of a human being in the United States, whether a human being because of the color of his skin is being deprived of his right to vote, or his right to equal opportunity for education, of his right to equal opportunity to earn a living for himself and his children, in short, of his rights, privileges, immunities, and responsibilities on the same basis as everyone else. A white man, no matter how depraved, can enter any place of public accommodation; a Negro, no matter how responsible, cannot. What then is the standard of judgment? Is the color of skin a legal disability anywhere defined in our Constitution? Can we not lay to rest this canker on the body politic? Can we not through the process of law place reason above passion and accept as responsible men the responsibility placed upon us by our Constitution?

I say we can, because each one of us in this body of elected Representatives within his mind, within his heart, and within his conscience knows the difference between right and wrong. There is no one here who will rise to say that all men are created equal except some are more so. That this is an issue charged with emotion we all acknowledge, but it is my hope that all the intelligence and responsibility each one can muster will be brought to bear during the discussion of this legislation, that neither the proponents nor the opponents of the bill will be reckless in interpretation of its titles.

I cannot say it better than President Johnson said it in the state of the Union message:

> For this is not merely an economic issue—or a social, political, or international issue. It is a moral issue—and it must be met by the passage this session of the bill now pending in the House.
>
> All members of the public should have equal access to facilities open to the public.
>
> All members of the public should be equally eligible for Federal benefits financed by the public.
>
> All members of the public should have an equal chance to vote for public officials—and to send their children to good public schools—and to contribute their talents to the public good.
>
> Today Americans of all races stand side by side in Berlin and Vietnam.
>
> They died side by side in Korea.
>
> Surely they can work and eat and travel side by side in America.

Let us ask ourselves, Has our U.S. Congress the duty to do something remedial about the following?

In 250 counties of the United States less than 15 percent of voting age Negroes are registered to vote. Can we remain indifferent to the fact that typical of numerous counties in the old Confederate States we have the following:

White population over 21	2,624
Registered whites (107.1 percent)	2,810
Negro population	2,250
Registered Negro	None

Another county:

White population over 21	1,900
Registered whites (118.4 percent)	2,250
Negro population	5,122
Negroes registered	None

Another county:

White population	4,116
Registered whites (148.9 percent)	6,130
Negro population	909
Negroes registered (6.1 percent)	56

Are we satisfied with the snail's pace of Congress in civil rights and education? Are we satisfied that if integration in the public schools continues at the present pace it will be 2063, 100 years from now, before we have real integration? Have we the right to be complacent when not a single Negro attends school below the college level in Mississippi, Alabama, and South Carolina?

Nine years ago, the Supreme Court ruled in Brown against Board of Education that racially segregated public schools are unconstitutional. One year later the Court ruled that desegregation shall take place "with all deliberate speed." Despite the passage of time since these decisions and the Court's recent reminder that the individual rights involved are present ones, public school systems in many parts of the country have done little or nothing at all to comply with constitutional mandates; there are still more than 2,000 school districts which require that white and Negro pupils attend separate schools.

Many Negro children entering segregated grade schools at the time of the Supreme Court decision in 1954 will enter segregated high schools this year.

These students have sufferd a loss in equal educational opportunities which can never be remedied. Barriers have been erected to discourage Negroes not only from voting but from holding public office. In one State all political candidates were required to list their race on the ballot beside their names. If white, the word "Caucasian" had to be added, if Negro, the word "Negro" had to be affixed. After a tortuous judicial course, the Supreme Court of the United States declared the act discriminatory and unconstitutional. In a county in another State 4 years ago, the public schools were closed rather than submit to integration. This was indeed unfortunate because it deprived the white pupils of education as well as the Negroes. If such contagion would spread, the Nation would abound in illiteracy. The onward movement to stop this type of discrimination cannot be abated.

The Nation watches what we do in this Chamber and desires that we do all and sundry to prevent these roadblocks to freedom for all.

Some of these States that suppress freedom for the Negro wish to continue the status quo. Indeed, States that deny such freedom are like children who shut their eyes in order not to see. But we see the intolerance. These States only blind themselves.

The Civil Rights Commission has clearly indicated, as a result of testimony taken since 1957, that prejudice, ostracism, discrimination, humiliation, and proscription in many places are the order of the day.

In those places the Negroes are like Sisyphus in Greek mythology. You remember Sisyphus who was consigned to Hades and who was compelled to go up a steep hill carrying a huge boulder. When he reached the top, the huge stone fell down on top of him and down he went along the steep incline. Then he would start up again and again the boulder came down upon him with the same disaster. I liken the Negro in many parts of the country to Sisyphus.

Civil rights must no longer be merely a beautiful conversation of sweet phrases and pretty sentiments. Civil rights must be the woof and the warp of the life of the Nation. The time has come for action—for the passage of the bill, H.R. 7152.

Indeed, an ounce of performance is worth a pound of preachment.

I am not unaware of the price that must be paid by some for the advance of the cause of civil rights. For many it may, indeed, be changing patterns of life that have existed for a century or more. I know it is easy for northerners and westerners to demand that mores and customs be changed; that there be a wrenching away from tradition. It is like asking one to sever hand from wrist. I wish truly that it could be otherwise, but unfortunately, it cannot. The die is cast.

UNFAIR REFLECTIONS ON THE BILL

Much unfair and unreasonable criticism has been leveled at the civil rights bill of 1964.

This criticism falls into three main categories and we heard some of that criticism just a few moments ago from the very distinguished and eminent Member of the House, the gentleman from Mississippi.

Opponents cry with alarm about what they claim are infringements of the rights of nonminority American citizens.

They invoke the baleful specter of Federal inspectors wielding unlimited power over innocent victims of governmental tyranny.

Finally, they attack the constitutional validity of the proposed legislation.

No one can object to legitimate criticism of any bill, no matter how worthy its objectives. What is objectionable about much of the criticism directed against the civil rights bill is that it seriously misrepresents what the bill would do and grossly distorts its effects.

The bill seeks simply to protect the right of American citizens to be free from racial and religious discrimination and to guarantee to them the full enjoyment of the rights of citizenship. It is a constitutionally and morally justified exercise of the obligations and authority of the Federal Government.

Let me cite some specifics.

EMPLOYERS, EMPLOYEES, AND LABOR UNIONS

It has been claimed that the bill would deprive employers, workers, and union members of their right to be free to control their business affairs and their membership. Specifically, the charge has been made that the Equal Employment Opportunity Commission to be established by title VII of the bill would have the power to prevent a business from employing and promoting the people it wished, and that a "Federal inspector" could then order the hiring and promotion only of employees of certain races or religious groups. This description of the bill is entirely wrong. The Equal Employment Opportunity Commission would be empowered merely to investigate specific charges of discrimination and to attempt to mediate or conciliate the dispute. It would have no authority to issue any orders to anyone.

In the event that wholly voluntary settlement proves to be impossible, the Commission could seek redress in the Federal courts, but it would be required to prove in the court that the particular employer involved had in fact, discriminated against one or more of his employees because of race, religion, or national origin. The employer would have ample opportunity to disprove any of the charges involved and would have the benefit of the protection of all the usual judicial procedures.

No order could be entered against an employer except by a court, and after a full and fair hearing, and any such order would be subject to appeal as is true in all court cases.

Even then, the court could not order that any preference be given to any particular race, religion or other group, but would be limited to ordering an end to discrimination. The statement that a Federal inspector could order the employment and promotion only of members of a specific racial or religious group is therefore patently erroneous.

Nor, as charged, would the fair employment provisions reach all employers and all businesses of any size or importance. Only businesses which affect interstate commerce would be covered, and, initially, even these businesses would be subject to the act only if they have more than 100 employees. In the later years, the act would apply to employers of 25 or more persons.

Finally, in order to provide an opportunity for adjustment and transition, the specific prohibitions on job discrimination would not become effective until 1 year after passage.

It has been asserted also that the bill would destroy worker seniority systems and employee rights vis-a-vis the union and the employer. This again is wrong. The bill would do no more than prevent a union, as it would prevent employers, from discriminating against or in favor of workers because of their race, religion, or national origin.

It is likewise not true that the Equal Employment Opportunity Commission would have power to rectify existing "racial or religious imbalance" in employment by requiring the hiring of certain people without regard to their qualifications simply because they are of a given race or religion. Only actual discrimination could be stopped. And there is, of course, no provision whatever for depriving unions of the rights and benefits under existing law.

The assertion that this is so is simply a total invention. Section 711 of the fair employment portion of the bill covers employment in the Federal Government and employment in firms having contracts with the Government. The President is authorized to take necessary action to insure equal employment opportunities in these areas. Contrary to the innuendos of certain critics of the bill, the President's authority is not unlimited. It is clearly confined to Government and Government contract employment. It is only just and reasonable that the Federal Government, representing and supported by all of its citizens, of whatever race or religion, insist upon fair and impartial employment procedures which allow equal opportunity to all qualified workers.

HOTELS, RESTAURANTS, THEATER, AND SIMILAR ESTABLISHMENTS WHICH SERVE THE PUBLIC

It is asserted that owners of business establishments will be deprived of the free choice of customers, be forced to tolerate undesirable patrons, and even thwarted in the hiring of a cook specializing in admittedly delectable delicacies such as gumbo, grits, or southern fried chicken. Those are the charges leveled against this bill. Why, such charges are ridiculous. As we have seen, the bill specifically aims at the hiring of employees on the basis of qualification, not on the basis of race. The bill does not require an establishment to serve unkempt, drunk, or disorderly persons whatever their color may be. The bill would require that certain business establishments, whose operations affect interstate commerce and which hold themselves out as serving the public, provide those services to the public without discrimination as to race. These establishments include hotels and motels furnishing lodging to transients; restaurants and lunchrooms; motion picture houses; theaters, gasoline stations. The conception of preventing discrimination on a racial basis is not new. We have had such laws in States for many years. As a matter of fact, some 30 States and the District of Columbia have such statutes. We never heard a whimper in this Chamber, not a protest against the operations of the provisions of those statutes in those 30 States, including the District of Columbia. All we do here is to apply what those 30 States are now doing and what the District of Columbia is now doing to the rest of the States so that there shall be no discrimination in places of public accommodation privately owned and in places of public accommodation publicly owned, such as swimming pools, parks, municipal golf links, and so forth.

The bill will also prevent racial discrimination in establishments when they are supported by the State. Discrimination of that type has already been declared unconstitutional by any number of cases. And certainly the bill does not interfere with anyone's right to earn a living.

SCHOOLS

It has been said that the bill would deprive both public and private schools of the right to manage their own internal affairs. This is clearly not the case, my good friends. The bill provides for technical assistance and financial grants to schools which are complying with the law of the land by beginning the desegregation of their classes—if—and only if—the local authorities request such assistance. Local authorities would remain in complete control of their school system. It is a startling fact that today, nearly 10 years after the Supreme Court of the United States declared that compulsory segregation in public education violates the Constitution, almost two-thirds—almost two-thirds—of the previously segregated school districts have still not afforded Negro children their constitutional rights. The bill would enable the Federal Government, under certain limited conditions, to bring suit in court for school desegregation in compliance with the Constitution.

Thus, the bill would simply implement the law of the land and hasten the enjoyment by all our citizens of their constitutional rights.

There is no authorization for either the Attorney General or the Commissioner of Education to work toward achieving racial balance in given schools. Such matters, like appointment of teachers and all other internal and administrative matters, are entirely in the hands of the local boards. This bill does not change that situation.

Nor would the result of title VI, covering Federal financial assistance, as has been charged, permit the Federal Government to control, for example, all employment of personnel and all facets of local education as well as other broad aspects of everyday life. This title simply provides that, where Federal money is used to support any program or activity—money which is paid into the Treasury by Negro and white citizens alike—the program must be used for the benefit of both races, without discrimination. This is basic American justice and fair play. There would be no basis under

title VI for any Federal agency to attempt to control the contents of any educational program or the day-to-day personal dealings of private individuals.

HOMEOWNERS, FARMERS, FINANCIAL INSTITUTIONS

Much time was spent by detractors of the bill in predicting the dire results which they claim would follow from the application of title VI of the bill. Sweeping statements are made suggesting that the bill would intrude into every phase of private life. It is said, for example, that the bill would interfere with the rights of persons who borrow money from or deposit money in a federally insured bank, farmers and homeowners who have financial dealings with Federal agencies, and the like. Such statements are distortions designed to arouse resentment. The bill will not punish beneficiaries of Federal aid for wrong committed by others. The bill would not affect an individual homeowner or farmer, for example, who borrows money through a Government agency. It would affect only the distributor of those Federal funds if the distributing agency refused to lend to Negroes but did lend to white persons. Moreover, the bill does not require the calling of any loans or "blacklisting" of individuals.

The bill would require that each Federal agency which extends financial assistance of the type covered by title VI must establish nondiscriminatory standards of general application. This means that it cannot apply one standard of conduct to one person and a different standard of conduct to another.

The bill would offer assurance that hospitals financed by Federal money would not deny adequate care to Negroes. It would prevent abuse of food distribution programs whereby Negroes have been known to be denied food surplus supplies when white persons were given such food. It would assure Negroes the benefits now accorded only white students in programs of high education financed by Federal funds. It would, in short, assure the existing right to equal treatment in the enjoyment of Federal funds. It would not destroy any rights of private property or freedom of association.

Actually, no action whatsoever can be taken against anyone until the Federal agency involved has advised the appropriate person of his failure to comply with nondiscrimination requirements and until voluntary efforts to secure compliance have failed.

Thus, only after a recipient of aid has persisted in discrimination because of race, color, or national origin, and has refused to abide by the nondiscrimination rules involved, can the Federal Government make any move to terminate financial assistance. Even then, no assistance can be cut off until there has been an express finding of discrimination, and the bill clearly provides that any such finding is subject to review by the courts.

The financial assistance programs covered are only those involving grants, contracts, or loans. The bill does not cover insurance and would of course not affect banks' accounts insured by the FDIC or benefits due to individuals under social security and veterans' benefits, for example.

It is, in fact, difficult to see how anyone can claim that he has the right to demand Federal dollars to underwrite his own personal prejudices.

VOTING CASES AND OTHER LITIGATION

Great concern is expressed by critics that the bill divests the States of their right to determine the qualifications of voters. This is clearly not true. States remain free to establish their own standards. The bill simply would require that the same standards be used for both white and Negro applicants.

It is a sad fact that in many localities, local election officials have a habit of turning down Negroes on the ground that they are illiterate—even those who are teachers or college graduates—while at the same time registering white applicants who are unable to read or write. Title I of the bill would remedy this situation by amending existing law, which enables the Attorney General to bring suits to protect against racial discrimination in voting. It would also provide that suits, brought under existing law to protect the right to vote, be given prompt attention by the courts.

I hope I have made it clear that the civil rights bill of 1964 is not a hydra-headed monster which encroaches upon the private and personal affairs of the citizenry. It does not create a field day for Federal personnel, enabling them to control every aspect of American life. It does spell out the obligation of the Federal Government to protect the constitutional rights of all its citizens.

Congress has, of course, the constitutional power to require nondiscrimination in Federal elections—including elections in which both Federal and State and local officers are selected—under article I, section 4 of the Constitution and the 14th and 15th amendments. Under its power to regulate commerce, Congress can forbid discrimination in employment and in public accommodations in business involving interstate commerce. It goes without saying that the 14th amendment prohibits racial discrimination which is the result of State action, such as segregated parks and schools. It is only right that Congress should exercise these powers in 1964, over 100 years after the Emancipation Proclamation.

Survival of our democracy in its finest sense must depend upon informed, responsible discussions of the issues and challenges which we must face; gross distortion designed to mislead the public is to be deplored. Inaccurate and distorted charges are inconsistent with the very values upon which our Nation is founded and can only threaten effective resolution of issues so essential to our continued existence as a free nation.

Almost every week of this 88th Congress measures seeking the enactment of a civil rights law have been introduced. The Civil Rights Subcommittee of the House Committee on the Judiciary began public hearings on May 8, on these measures. By the time the public hearings were concluded on August 2, 1963, over 170 civil rights bills had been proposed by Members of the House of Representatives.

What does that mean? That means that there is grassroot support for this legislation—170 Members would not take the trouble to put into the hopper 170 bills unless they had the approval, advance notice, at least, from their constituents that their constituencies wanted action. That they were sick and tired of delay. They wanted constitutional rights to be accorded every man and woman in this country, and that the Negro should have rights of his own.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. JONES of Missouri. The gentleman is not trying to tell this House that all 170 of those bills were generated to give equality and all, and that politics did not motivate it, is he?

Mr. CELLER. I do not want to bring any charges of politics against a Member.

Mr. JONES of Missouri. I do not mind bringing such charges.

Mr. CELLER. I do not think any Member would stoop to that.

Mr. JONES of Missouri. I am surprised at the naiveness with which a man pretends to impress this House.

Mr. CELLER. I do not want to bring any charges against any Member of this House that he offered a bill for political purposes. If the gentleman wants to do that, that is his privilege, but I shall not do it.

The Civil Rights Subcommittee has taken into consideration all these bills. We held executive session for many days, seeking to fashion a bill that would not only prove effective but would also attract and retain sufficient support for its passage. The full Judiciary Committee, thereafter met in executive session and on November 20, 1963, favorably reported an amended version of H.R. 7152, which represented a substantial bipartisan committee consensus.

Both parties joined hands. We felt we represented a cause. We shunned a political issue. I am grateful to the ranking member of the Republican Party on the Judiciary Committee, the gentleman from Ohio [Mr. McCULLOCH]. He and I labored incessantly fashioning the bill. I pay tribute to him and his fellow Republicans who stood by him, and I am heartened by the support accorded me by my Democratic colleagues on the committee. I pay them tribute.

I turn attention to the provisions of the bill itself. H.R. 7152, as amended, contains 10 titles.

Title I of the bill deals with voting. It seeks to assure that no qualified voter is denied the right to vote solely because of his race or color. The deficiencies of the Civil Rights Acts of 1957 and 1960 which sought this same objective, require correction.

First, there have been lengthy and often unwarranted delays in court proceedings to vindicate voting rights. For example, one suit filed in July 1961 in a Louisiana parish where 24,000 of 40,000 eligible whites were registered but only 725 of 16,000 eligible Negroes were registered, is still pending after 2 years, and

so is the Negro's right to vote. Obviously there is no such thing as retroactive relief with respect to voting rights. To eliminate the delay, title I of H.R. 7152, as amended, would require courts to give priority to voting cases brought by the United States; it would also authorize and direct the appointment of a three-judge court, upon the request of the Attorney General. Three-man courts are not new. We have them in transportation and antitrust cases.

Another voting abuse has been the resort to literacy tests and other devices as a means of discriminating against Negroes attempting to register. The bill would prohibit the discriminatory use of such tests and other devices by registered officials and would require such officials to apply equal standards with respect to Federal elections. The title requires that literacy tests, whenever given, must be in writing and creates a rebuttable presumption that an individual who has completed the sixth grade possesses sufficient literacy to vote in Federal elections.

Title II of the bill would establish the right of all persons to full and equal enjoyment, without discrimination or segregation, of the services and facilities of designated places of public accommodation if the operations of such places affect commerce or if the discrimination or segregation is supported by State action.

This title seeks to remove the daily affront and humiliation occasioned by discriminatory denials of access to facilities open to the general public. The mounting resentment to such discrimination has been responsible for numerous protests and demonstrations. Such discrimination not only inhibits the mobility of large groups of our citizens but results in substantial burdens on the free flow of commerce. While there has been steady progress in many areas, much remains to be done. Of 275 cities with populations in excess of 10,000 in the 11 States of the old Confederacy and the 4 border States, as of July 1963, approximately 65 percent have not yet desegregated their hotels or motels; close to 60 percent have not yet desegregated their restaurants or theaters and 43 percent still have segregated luncheon counters. An even bleaker picture is presented in 98 cities in the Southern and border States with less than 10,000 population—approximately 85 to 90 percent of these smaller cities have not yet desegregated their restaurants, hotels, motels, theaters, or luncheon counters.

Legislation to secure the right to service in places of public accommodation is no novelty in the United States. Some 30 States and the District of Columbia have laws prohibiting discrimination in places of public accommodation. The failure of more States to take effective action in light of the prevalence of discrimination makes Federal legislation necessary.

Title II of the bill prohibits discrimination on grounds of race, color, or national origin in hotels, motels, theaters, places of amusement presenting entertainment which moves in interstate commerce, and restaurants, luncheon counters, and gasoline stations which sell food or goods which move in interstate commerce or which serve interstate travelers. In addition to these enumerated establishments, the bill covers establishments which either contain, or are located within the premises of, any establishment that is specified in the bill. This would mean, for example, that retail stores, ordinarily not included, which contain public luncheon counters or restaurants would thereby also be subject to the nondiscrimination provisions of this bill. However, barber shops, beauty parlors and other such establishments are not covered unless they are contained within a hotel or are intended for the use of the patrons of the hotel, if the hotel is covered.

Discrimination is also proscribed in the establishments designated by the bill if such discrimination is supported by State action. Discriminatory practices are treated as so supported if carried on under color of any law or if they are required, fostered, or encouraged by State action.

Finally, the bill would prohibit discrimination in any establishment, whether or not in the enumerated categories if discrimination is required or purports to be required by State law.

The prohibitions in title II of the bill would be enforced only by civil suits for injunctions. Neither criminal penalties nor the recovery of money damages would be involved. Any person violating a court injunction issued under the provisions of title II, of course, would be subject to contempt proceedings. But these would be limited by the jury trial provisions of the Civil Rights Act of 1957. In addition to private action, the bill authorizes the Attorney General to bring suit in important cases but requires that the matter be first referred to local authorities to afford them a reasonable time to act if local law appears to prohibit the conduct complained of.

Title III of the bill concerns State or municipal facilities like parks, libraries, playgrounds—other than schools or colleges—the limitation of access to, or use of which, would be a denial of equal protection of the laws under the 14th amendment. This title would authorize the Attorney General, under specified circumstances, to initiate suits to desegregate public facilities, other than public educational institutions, which are operated, owned, or managed by or on behalf of any State. This title does not authorize suits against private, nongovernmental businesses or establishments. The mere fact that the prices or rates of a business were limited or controlled by State or local law, or that the business was subject to some form of license or regulation would not bring it within the scope of title III, since such regulation would not be enough to make the facility State managed for the purposes of the title.

Title III also authorizes the Attorney General to intervene in any action brought by a private person to obtain relief from a denial of the equal protection of the laws because of race, color, religion, or national origin. It would thus permit the Attorney General to participate in suits alleging denial of the equal protection of the laws for reasons of race or color, such as suits seeking to remedy official mistreatment, abuse, or denial of rights to Negroes because of their race or color.

Title IV of the bill deals with the desegregation of public education. Nine years have passed since the Brown against Board of Education decision, yet there still remain, I repeat, more than 2,000 school districts which require that white and Negro pupils attend separate schools. Many Negro children who entered segregated grade schools at the time of the 1954 Supreme Court decision entered segregated high schools this past year. These students have suffered loss of equal educational opportunities which can never be remedied. These failures represent not merely a technical or legal denial of rights. Today this Nation confronts the fact that, because of discrimination in education, great numbers of our citizens are hopelessly handicapped in the labor market.

Title IV would hasten the processes of desegregation in two important ways: First, it would authorize the Commissioner of Education to provide, upon application of local school authorities, technical and financial aid to assist schools in dealing with problems occasioned by desegregation; second, it would authorize the Attorney General to institute suits to compel desegregation where the private parties are unable to bring suit and where the Attorney General considers that a suit would materially further the national policy favoring the orderly achievement of desegregation in public education.

Title V of H.R. 7152, as amended, concerns the Commission on Civil Rights. In addition to minor procedural and technical changes, it gives the Commission permanent status. Title V also authorizes the Commission to serve as a national clearinghouse for information concerning denials of equal protection of the laws, and to investigate allegations as to patterns or practices of fraud or discrimination in elections for Federal office.

Title VI of the bill is intended to insure that no person in the United States is excluded from participation in, denied the benefits of, or subjected to discrimination on grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Title VI directs all appropriate Federal agencies to adopt rules, regulations, or orders of general applicability to effectuate this national policy of nondiscrimination. It would require each Federal agency administering Federal assistance, by grant, contract, or loan, to reexamine its assistance program to make sure that adequate action has been taken to preclude such discrimination.

The objective of title VI is to end discrimination, not to deny Federal assistance. The title requires that an effort be made to secure compliance by voluntary means before any enforcement mechanism is invoked.

The title will not punish innocent beneficiaries of Federal aid for wrongs committed by others. For example, title VI would not affect an individual farmer who borrows money through a Govern-

ment agency. It would affect the distributor of those funds if the distributing agency practices discrimination. As to each assisted program or activity, title VI will require an identification of those persons whom Congress regarded as participants and beneficiaries, and in respect to whom the principle declared in title VI would apply. For example, the purpose of acreage allotments under the Agricultural Production Act is to assist farmers by stabilizing production and prices; it is not basically concerned with farm employment. As applied to this program, title VI would preclude discrimination in connection with the eligibility of farmers for allotment payments—but would not require action to end discriminatory employment practices by farmers receiving allotments. To guard against any possible abuse, ample opportunity is provided for judicial review of any Federal agency action terminating or refusing to grant or to continue financial assistance on grounds of discrimination.

The executive branch has generally followed nondiscrimination policies in the administration of Federal assistance programs when not limited by statutory provisions such as those contained in the Hill-Burton Act—42 U.S.C. 291e(f), and the second Morrill Act, 7 U.S.C. 323. Title VI would provide clear statutory support for such executive action, and would guarantee that it be continued in future years as a permanent part of our national policy.

Title VII of the bill establishes a Federal Equal Employment Opportunity Commission designed to eliminate discriminatory employment practices by certain employers, unions, and employment agencies. The Commission is empowered to: First, receive and investigate charges of discrimination in employment affecting commerce; second, attempt through conciliation and persuasion to resolve disputes involving such charges; and third, if efforts to secure voluntary compliance are unsuccessful, seek relief in the Federal courts where the matter will be heard de novo.

In order to enable employers, unions, and employment agencies to adjust their policies and procedures in conformity with the requirements of title VII, the provisions prohibiting discriminatory employment practices and providing relief therefrom do not become effective until 1 year after the date of enactment of title VII. Similarly, in order to provide for an orderly transition and adjustment, coverage in the first year of the law's operation is extended to employers and unions which have 100 employees or members; in the second year, 50 employees or members; and in the third year and thereafter, 25 employees or members.

To the maximum extent possible, title VII provides for the utilization of existing State fair employment laws and procedures. Existing State laws will remain in effect except as they conflict directly with Federal law. Through cooperative efforts with State and local agencies, title VII envisions an effective and harmonious mobilization of Federal, State, and local authorities in attacking this national problem.

Approximately half of the States today have laws prohibiting discrimination in employment. Title VII would extend this protection throughout the 50 States.

Title VIII of the bill directs the Secretary of Commerce—Bureau of the Census—to compile registration and voting statistics by race, color, and national origin in such geographic areas and to such extent as the Commission on Civil Rights recommends. The resulting data will provide an accurate and reliable fund of information helpful to the Congress in determining the dimensions of discrimination in voting. It will particularly aid in assessing progress made in assuring to each qualified citizen the fundamental right to vote.

Title IX of the bill amends existing law—28 United States Code 1447(d)—to expressly permit appeal from a Federal court order remanding to the State court from which it was removed any civil rights case removed pursuant to 28 United States Code 1443.

Title X contains three miscellaneous provisions. The first preserves existing authority of the Attorney General; the second provides for appropriations authority, and the third contains a general severability clause.

From the very beginning of this 88th Congress, measures seeking enactment of a civil rights law have been introduced. The Civil Rights Subcommittee of the House Committee on the Judiciary began public hearings on May 8 on these measures. By the time the public hearings were concluded on August 2, 1963, over 170 civil rights bills had been proposed by Members of the House of Representatives. The Civil Rights Subcommittee sat in executive session for a total of 17 days seeking to fashion a bill that would not only prove effective but would also attract and obtain sufficient support for its passage. The full Judiciary Committee thereafter met in executive session and on November 20 favorably reported an amended version of H.R. 7152 which represented a substantial bipartisan committee consensus.

While no bill can solve the complex problems of discrimination, I believe enactment of the measure approved by the Committee on the Judiciary would do more toward eliminating these wrongs than any other measure possible at this time. H.R. 7152, as amended, contains a most comprehensive program designed to resolve the issues which today challenge our national conscience.

The demonstrations and violence of recent months have served to point up what many of us have known for years: That this Nation can no longer abide the moral outrage of discrimination.

The enactment of this bill is required, as the late President Kennedy said, "not merely for reasons of economic efficiency, world diplomacy, and domestic tranquillity—but above all, because it is right."

Mr. Chairman, I ask unanimous consent to include a series of memorandums dealing with the constitutionality and legality of various titles of the bill. I commend, if possible, the reading of this document, which is rather expansive but covers the constitutionality of the principal provisions in the bill, to the Members of this House. It can be used for ready reference. It will appear at the end of my statement.

Mr. Chairman, I ask unanimous consent to put those documents in the RECORD.

The CHAIRMAN. The Chair reminds the gentleman from New York that he must obtain that permission in the House.

Mr. CELLER. I shall.

These memorandums deal with the following titles:

Title I: Voting.

Title II: Injunctive Relief against Discrimination in Places of Public Accommodation.

Title III: Desegregation of Public Facilities.

Title IV: Desegregation of Public Education.

Title VI: Nondiscrimination in Federally Assisted Programs.

Title VII: Equal Employment Opportunity.

THE CONSTITUTIONALITY OF THE PROVISIONS OF TITLE I

The constitutionality of the various provisions of title I may be based on any one of several sources: The 14th amendment to the U.S. Constitution; the 15th amendment; article I, section 4; and the implied power of Congress to protect the purity of Federal elections.

1. The 14th amendment

Under the Constitution the States have the general power to prescribe the qualifications for voting in both State and Federal elections. *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, 60 (1959); *Breedlove* v. *Suttles*, 302 U.S. 277 (1937); *Pope* v. *Williams*, 193 U.S. 621, 633 (1904). But, like all other powers, it is limited by other provisions of the U.S. Constitution. *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960); *Gray* v. *Sanders*, 377 U.S. 368, 379 (1963).

The actions of voting registrars in applying literacy and other qualification tests so as to disenfranchise Negroes, while failing to apply the same tests to whites in the same manner, constitute a denial of the equal protection of the laws guaranteed by the 14th amendment. See, e.g., *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala., 1949), affirmed, 336 U.S. 933. See also, *Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886); *Rice* v. *Elmore*, 165 F. 2d 387, 392 (C.A. 4, 1947). Thus, section 101(a)(2)(A) would require registrars to apply the same standards in registering Negroes, for example, as he has used in registering whites and is appropriate legislation under the equal protection clause. In fact, it does no more than the Constitution itself requires.

Similarly, sections 101(a)(2)(B) and 101(a)(2)(C) which prohibit disqualification for immaterial errors in voting registration forms and require that literacy tests be administered in writing also implement the equal protection clause of the 14th amendment since they are aimed at unconstitutionally discriminatory practices.

As a privilege and immunity of national citizenship (*Twining* v. *New Jersey*, *supra*) and as a right implicit in and guaranteed by the Constitution (*United States* v. *Classic*, 313 U.S. 299, 315 (1941)), the rights qualified voters to vote for Federal officers cannot be denied by a State without violating "fundamental principles of liberty and justice which lie at the base of all of our civil and political institutions" *Hebert* v. *Louisiana*, 272 U.S. 312, 316(1926). The right to vote for such officers is therefore an aspect of "liberty" protected by the due process clause of the 14th amendment from arbitrary and unreasonable infringement by the States. Congress has power under section 5 of the

14th amendment to prohibit State qualification tests which are arbitrary and which for that reason violate the 14th amendment. The types of practices that would be prohibited by title I have proved to be means of arbitrary denial of the right to vote and they may therefore be prohibited by Congress.

2. The 15th amendment

The 15th amendment 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." Thus, it prohibits the racially discriminatory administration of State voting laws, even if such laws are valid on their face. *United States* v. *Thomas*, 180 F. Supp. 10 (E.D. La., 1960), affirmed 362 U.S. 58 (1960); see *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala., 1949), affirmed 336 U.S. 933. It also prohibits "contrivances by a State to thwart equality in the enjoyment of the right to vote by citizens of the United States regardless of race or color"; it "nullifies sophisticated as well as simple-minded modes of discrimination"; it forbids "onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." *Lane* v. *Wilson*, 307 U.S. 268, 275 (1939); see also *Myers* v. *Anderson*, 238 U.S. 368 (1915); *Guinn* v. *United States*, 238 U.S. 347 (1915).

Each of the practices at which title I is aimed is a device found to have been utilized to discriminate against Negroes. There is no doubt but that under the 15th amendment the Congress can adopt legislation designed to end them. Under section 2 of the 15th amendment Congress is vested with the power to enact "appropriate legislation" to enforce the amendment. This power includes the enactment of all measures reasonably adapted to counteract discriminatory devices. See, e.g., *United States* v. *Raines*, 362 U.S. 17, 25 (1960); *Hannah* v. *Larche*, 363 U.S. 420, 452 (1960). Title I is such a measure.

The measure of congressional power to enforce prohibitory constitutional amendments is illustrated by *James Everard Breweries* v. *Day*, 265 U.S. 545 (1924). There, the Supreme Court held that, although the 18th amendment in terms prohibited only the manufacture and sale of intoxicating liquors for beverage purposes, Congress could, under the "appropriate legislation" clause of that amendment, bar the prescription of intoxicating liquor for medicinal purposes, for the sole reason that prohibiting traffic in the latter was reasonably adapted to enforcing the terms of the amendment. The Court said (265 U.S. at 561):

"The opportunity to manufacture, sell, and prescribe intoxicating malt liquors of 'medicinal purposes,' opens many doors to clandestine traffic in them as beverages under the guise of medicines; facilitates many frauds, subterfuges and artifices; aids evasion; and thereby and to that extent, hampers and obstructs the enforcement of the 18th amendment."

See also *Ruppert* v. *Caffey*, 251 U.S. 264 (1920); *United States* v. *Darby*, 312 U.S. 100, 121 (1941); *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819); *Westfall* v. *United States*, 274 U.S. 256, 258–259 (1927).

This means that Congress, acting under its power to enforce provisions such as those of the 18th or the 15th amendment by "appropriate legislation," is not limited to outlawing practices which are forbidden by the terms of the provisions themselves. It may also do whatever is reasonably necessary to remove obstructions to fulfillment of the purposes of the provisions. The provisions of title I obviously are "reasonably necessary" to eliminate obstructions to the purposes of the 15th amendment—that the right of citizens to vote shall not be denied on account of race.

3. Article I, section 4, of the Constitution

Inasmuch as part of title I is limited to Federal elections, its constitutionality is supported also by article I, section 4 of the Constitution. That article adopts as the qualifications necessary to vote for Members of the House of Representatives the qualifications established by each State to vote for representatives to its most numerous legislative branch. The right to vote in senatorial elections is defined in identical terms by the 17th amendment. However, article I, section 4 of the Constitution further provides that:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of chusing [sic] Senators."

The power given Congress by article I, section 4 provides the means for remedying abuses in the regulation of the manner of conducting congressional elections.

In *Smiley* v. *Holm*, 285 U.S. 355, 366 (1932), the Supreme Court spoke of article I, section 4 in these terms:

"It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved."

Section 101 (a) and (b) of title I in essence is but a regulation of the "manner" of holding elections for Federal officials. The title does not attempt to alter the qualifications a State may require for voting.

4. The implied power of Congress to protect the purity of the Federal ballot

It is settled that Congress possesses powers which, though not specifically enumerated in the Constitution, are implied because they are "necessary and proper" (article I, section 8, clause 18) to carry out the powers expressly delegated by the Constitution to Congress. See e.g., *United States* v. *Fox*, 95 U.S. 670, 672 (1878); *Ex parte Yarbrough*, 110 U.S. 651, 658–59 (1884); *Dennis* v. *United States*, 341 U.S. 494, 501 (1951).

In *Burroughs and Cannon* v. *United States*, 290 U.S. 534 (1934) the Court ruled that the implied powers of Congress extend to measures to insure the purity of the Federal ballot. In sustaining the validity of the Corrupt Practices Act, the Court declared (290 U.S. at 545):

"To say that Congress is without power to pass appropriate legislation to safeguard such an election (for President of the United States) from the improper use of money to influence the result is to deny to the Nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the General Government from impairment or destruction, whether threatened by force or by corruption."

The similarity between corruption of the Federal electoral process by the use of money and corruption of the same process by devices susceptible of being used and actually used to disenfranchise voters because of race is plain. If anything, the latter is more subject to congressional control because (1) it is directed toward a special class; (2) it is inconsistent with constitutional principles given express recognition in the 14th and 15th amendments, and (3) it is perpetrated by the State, or by State officials sworn to uphold the Constitution, rather than by private persons.

In short, Congress surely has the power to protect elections for Federal office from devices that are widely used to corrupt the purity of such elections. It is plain that the discriminatory devices which title I is designed to inhibit are within the ambit of congressional authority and that the provisions contained in title I are constitutionally proper devices to do so.

As the Supreme Court said in *United States* v. *Classic*, 313 U.S. 299, 315 (1941):

"While, in a loose sense, the right to vote for representatives in Congress is sometimes spoken of as a right derived from the States, see *Minor* v. *Happersett*, 21 Wall. 162, 170; *United States* v. *Reese*, 92 U.S. 214, 217–218; *McPherson* v. *Blackmer*, 146 U.S. 1, 38–39; *Breedlove* v. *Suttles*, 302 U.S. 277, 283, this statement is true only in the sense that the States are authorized by the Constitution, to legislate on the subject as provided by section 2 of article I, to the extent that Congress has not restricted State action by the exercise of its powers to regulate elections under section 4 and its more general power under article I, section 8, clause 18, of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'"

See also *Lassiter* v. *Northampton Election Board*, supra, 306 U.S. at 51.

THE CONSTITUTIONALITY OF THE PUBLIC ACCOMMODATIONS PROVISIONS OF TITLE II

Title II of H.R. 7152 provides a remedy by suit for injunction against discrimination at certain places of public accommodation. These provisions are applicable to certain designated establishments—places of lodging, eating places, gasoline stations, and places of exhibition or entertainment—if (1) their operations affect commerce or (2) discrimination or segregation by them is supported by State action (sec. 201). These tests are in the alternative, and an establishment is covered by title II if either one of them is met. Thus, as to the establishments designated in section 201, title II is an exercise of the power of Congress to regulate commerce among the several States under article I, section 8, clause 3, of the Constitution, and also of the power of Congress to enact appropriate legislation to enforce the 14th amendment.

In addition, title II is applicable to any establishment or place at which segregation or discrimination is or purports to be required by State or local law (sec. 202). As to the places or establishments covered by section 202, title II is an exercise of the power of Congress to enact appropriate legislation to enforce the 14th amendment. The provisions of title II may also derive support from the power of Congress to enact appropriate legislation to enforce the 13th amendment.

There is no objection to invoking several sources of constitutional authority to achieve a legislatively desired result. Federal statutes often rest on more than one source of congressional power.[1] In many cases, a particular establishment will clearly be subject to congressional power under both the commerce clause and the 14th amendment; in other cases, however, proof of effect on interstate commerce may be easier, factually or legally, than proof that discrimination is supported by State action, or vice versa. By relying on both sources of power, section 201 will facilitate proof and avoid doubts or gaps as to coverage which might result if exclusive reliance were placed on a single source. In title II Congress would state the result

[1] For example, the TVA Act was sustained as an exercise of the war and commerce powers. *Ashwander* v. *Tennessee Valley Authority*, 297 U.S. 288, 326–330.

it seeks to achieve, and would marshal all available sources of congressional power in support of that result.

The danger of tying the public accommodations provisions to a single source of congressional authority is illustrated by the original *Civil Rights* cases, 109 U.S. 3 (1883). In view of the Supreme Court, sections 1 and 2 of the Civil Rights Act of 1875 had been tied by Congress exclusively to section 5 of the 14th amendment. The Court held the statute unconstitutional as based upon that amendment, and refused to consider whether it would be constitutional in some of its applications under the power to regulate interstate commerce (id. at 19). See also *Butts* v. *Merchants and Miners Transportation Co.*, 230 U.S. 126. Section 201 of the present bill avoids this danger.

I. The commerce clause

Insofar as title II rests on the power of the Congress to regulate commerce, its provisions are amply supported by well-established constitutional principles.

The power of Congress over interstate commerce and activities affecting interstate commerce is broad and plenary. "The congressional authority to protect interstate commerce from burdens and obstructions," Chief Justice Hughes said in *Labor Board* v. *Jones and Laughlin Steel Corp.*, 301 U.S. 1, 36–37, "is not limited to transactions deemed to be an essential part of a 'flow' of interstate or foreign commerce. * * * The fundamental principle is that the power to regulate commerce is the power to enact 'all appropriate legislation' for 'its protection and advancement' * * * to adopt measures 'to promote its growth and insure its safety' * * * 'to foster, protect, control and restrain.'"

Congress may exercise this power notwithstanding that the particular activity is local, that it is quantitatively unimportant, that it involves the retail trade, or that standing by itself it may not be regarded as interstate commerce "[W]hatever its nature, [it] may be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as 'direct' or 'indirect'." *Wickard* v. *Filburn*, 317 U.S. 111, 125.

Thus, in *Wickard* v. *Filburn*, the Agricultural Adjustment Act was applied to a farmer who sowed only 23 acres of wheat and whose individual effect on interstate commerce amounted only to the pressure of 239 bushels of wheat upon the total national market. In *Mabee* v. *White Plains Publishing Co.*, 327 U.S. 178, the Fair Labor Standards Act was applied under the commerce clause to a newspaper whose circulation was about 9,000 copies and which mailed only 45 copies—about one-half of 1 percent of its business—out of State.[2] And in *United States* v. *Sullivan*, 332 U.S. 689, the Supreme Court held, without dissent on this point, that Congress has power to forbid a small retail druggist from selling drugs without the form of label required by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), even though the drugs were imported in properly labeled bottles from which they were not removed until they reached the local drugstore and even though the drugs in question had reached the State 9 months before being resold.[3]

Of course, there are limits on congressional power under the commerce clause. It may be conceded that Congress does not have the power to regulate all of a man's conduct solely because he has some relationship with interstate commerce. What is required is that there be a relationship between interstate commerce and the evil to be regulated. Over the course of the years, various tests have been established for determining whether this relationship exists. The proposed legislation clearly meets these tests.

1. Restrictions on interstate travel

Congress has long exercised authority under the commerce clause to remove impediments to interstate travel and interstate travelers. As long ago as 1887, legislation was enacted (49 U.S.C. 3(1)) forbidding a railroad in interstate commerce "to subject any particular person * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." Similar statutory authority is provided with respect to motor carriers (49 U.S.C. 316(d)) and air carriers (49 U.S.C. 1374(b)).

These provisions have been authoritatively construed to proscribe racial segregation of passengers on railroads (*Mitchell* v. *United States*, 313 U.S. 80; *Henderson* v. *United States*, 339 U.S. 816; *NAACP* v. *St. Louis-San Francisco Ry. Co.*, 297 I.C.C. 335), on motor carriers (*Boynton* v. *Virginia*, 364 U.S. 454; *Keys* v. *Carolina Coach Co.*, 64 M.C.C. 769), and on air carriers (*Fitzgerald* v. *Pan American World Airways*, 229 F. 2d 499 (C.A. 2)). The decisions in these cases are, of course, direct authority for the proposition that Congress may enact legislation appropriate to secure equality of treatment for Negroes using the facilities of interstate commerce.

The constitutional authority of Congress under the commerce clause, moreover, extends beyond the regulation of the interstate carriers themselves; it covers all businesses affecting interstate travel (i.e., interstate commerce). Thus the wages of employees engaged in preparing meals for interstate airlines, sandwiches for sale in a railroad terminal, and ice for cooling trains have all been held subject to Federal regulation under the commerce clause. *Walling* v. *Armstrong*, 68 F. Supp. 870, affirmed, 161 F. 2d 515; *Sherry Corine Corp.* v. *Mitchell*, 264 F. 2d 831, cert. denied, 360 U.S. 934; *Mitchell* v. *Royal Baking Co.*, 219 F. 2d 532; *Chapman* v. *Home Ice Co.*, 136 F. 2d 353, cert. denied, 320 U.S. 761.

Similarly, Congress' authority under the commerce clause extends to restaurants at a terminal used by an interstate carrier. In *Boynton* v. *Virginia*, 364 U.S. 454, 463, the Supreme Court declared:

"Interstate passengers have to eat. * * * Such passengers in transit on a paid interstate * * * journey had a right to expect that this essential transportation food service voluntarily provided for them under such circumstances would be rendered without discrimination prohibited by the Interstate Commerce Act."

While in Boynton the Court held as a matter of statutory construction that the Interstate Commerce Act reached only restaurants connected with the carrier itself, its reasoning with respect to effect on commerce is no less applicable to service stations, hotels, motels, and other establishments serving interstate travelers. Such establishments affect travelers, and therefore, interstate commerce, in the same manner as restaurants. Just as travelers need food, they must have gasoline and places to sleep. Clearly, discrimination by such establishments severely burdens and restricts interstate travel and may therefore be regulated by the Congress.

In removing impediments to interstate travel, Congress is not limited to forbidding discrimination against interstate travelers alone; it may forbid discrimination against local customers as well. Congress may "choose the means reasonably adapted to the attainment of the permitted end, even though they involve control of intrastate activities." *United States* v. *Darby*, 312 U.S. 100, 121. Interstate commerce is burdened if interstate travelers are required to carry with them proof that they are in the course of a trip through more than one State. See *Baldwin* v. *Morgan*, 287 F. 2d 750 (C.A. 5). And interstate travel is discouraged if the interstate traveler is aware that those of his race who are not involved in interstate travel are refused service or accommodations in facilities needed by interstate travelers. Congress may eliminate these incidental impediments to interstate travel along with the more direct burdens discussed above. *United States* v. *Darby*, 312 U.S. 100; *Currin* v. *Wallace*, 306 U.S. 1; *Thornton* v. *United States*, 271 U.S. 414; *Shreveport Rate Cases*, 234 U.S. 342.

Under the foregoing authorities there can be no doubt that Congress has power to legislate so as to prohibit discrimination in eating places and gasoline stations which serve or offer to serve interstate travelers (sec. 201(c)(2)); and in establishments which provide lodging to transient guests and hence by their very nature serve or offer to serve interstate travelers (sec. 201(c)(1)). Obtaining lodging, food, gasoline and related services and conveniences is an essential part of interstate travel, and discriminatory practices which restrict the availability of such goods, services and conveniences, or expose interstate travelers to inconvenience or embarrassment in obtaining them, constitute burdens on interstate commerce which Congress has clear authority to remove.

2. Artificial restrictions upon the market for goods

Supreme Court decisions have many times sustained the power of Congress to enact legislation which would remove artificial restrictions upon the markets for products from other States. The removal of such restrictions, as the Supreme Court recognized in *Stafford* v. *Wallace*, 258 U.S. 495, promotes interstate traffic and therefore constitutes an appropriate object for the exercise of congressional authority. On that basis, restraints involving the local exhibition of motion pictures have been the subject of Federal regulation under the Sherman Act (*Interstate Circuit* v. *United States*, 306 U.S. 208; *White Bear Theatre* v. *State Theatre Corp.*, 129 F. 2d 600; *Youngclaus* v. *Omaha Film Board of Trade*, 60 F. 2d 538; *IPC Distributors* v. *Chicago Moving Picture Machine Operators Union*, 132 F. Supp. 294), and so have restraints involving stage attractions (*United States* v. *Shubert*, 348 U.S. 222), professional boxing matches (*United States* v. *International Boxing Club*, 348 U.S. 236), and professional football games (*Radovich* v. *National Football League*, 352 U.S. 445).

Like unlawful monopolies, racial discrimination and segregation in the establishments covered by the proposed legislation constitute artificial restrictions upon the movement of goods in interstate commerce, and they may be dealt with by the Congress for

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[2] See also, *Labor Board* v. *Fainblatt*, 306 U.S. 601, 607; *United States* v. *Darby*, 312 U.S. 100, 123.

[3] Laws enacted pursuant to the commerce power have been applied to businesses furnishing accommodations to interstate travelers (*Hotel Employees Local 255* v. *Leedom*, 358 U.S. 99), to retail auto dealers (*Howell Chevrolet Co.* v. *National Labor Relations Board*, 346 U.S. 482) to drugstores (*United States* v. *Sullivan*, 332 U.S. 689), to department stores (*J. L. Brandeis* v. *National Labor Relations Board*, 142 F. 2d 977 (C.A. 8), certiorari denied, 323 U.S. 751; *May Department Stores, Co.* v. *National Labor Relations Board*, 326 U.S. 376), to theaters (*League of New York Theaters, Inc.*, 129 N.L.R.B. 1429; *National Labor Relations Board* v. *Combined Century Theaters*, 278 F. 2d 306 (C.A. 2)), and other retail enterprises (see *e.g.*, *Meat Cutters* v. *Fairlawn Meats*, 353 U.S. 20; *San Diego Building Trades Council* v. *Garmon*, 353 U.S. 26; *National Labor Relations Board* v. *Reliance Fuel Corp.*, 371 U.S. 224; *National Labor Relations Board* v. *Gene Compton's Corporation*, 262 F. 2d 653 (C.A. 9).

that reason. The restrictive impact of discriminatory practices is perhaps best illustrated by reference to the motion picture industry.

Motion picture theaters which refuse to admit Negroes will obviously draw patrons from a narrower segment of the market than if they were open to patrons of all races. The difference will often not be made up by separate theaters for Negroes because there are localities which can support one theater but not two (or two but not three, etc.) and because the inferior economic position in which racial discrimination has held Negroes often makes their custom alone financially inadequate to support a theater. Thus, the demand for films from out of State, and the royalties on such films, will be less. What is true of exclusion is true, although perhaps in less degree, of segregation. During any particular performance, a segregated theater may well lack sufficient seating space in the "white" section while offering ample seating in the "Negro" section, or vice versa. Moreover, the very fact of segregation in seating discourages attendance by Negroes.

These principles are applicable not merely to motion picture theaters but to other establishments which receive supplies, equipment or goods through the channels of interstate commerce. If these establishments narrow their potential markets by artificially restricting their patrons to non-Negroes, the volume of sales and therefore the volume of interstate purchases will be less. Although the demand may be partly filled by other establishments that do not discriminate, the effect will be substantial in those areas where segregation is practiced on a large scale. The economic impact is felt in interstate commerce. The commerce clause vests power in the Congress to remedy this condition.

On the foregoing authorities it is clear that Congress has power to prohibit discrimination at places of exhibition and entertainment which customarily present films, performances, athletic teams, exhibitions, or other sources of entertainment which move in interstate commerce (sec. 201(c)(3)), and at eating places and gasoline stations which sell goods, a substantial portion of which has moved in such commerce (sec. 201(c)(2)).

3. Elimination of adverse effects on the allocation of resources and flow of interstate commerce

The commerce clause also vests Congress with the authority to deal with conditions which adversely affect the allocation of resources and the flow of interstate commerce.

The Federal Government has, of course, a legitimate interest in the interstate movement of capital and goods, and Congress has frequently acted in furtherance of that interest. Thus, in the Agricultural Adjustment Act of 1938 (52 Stat. 31, 46, et seq.), Congress provided for restrictions on production of certain agricultural products "in order to promote, foster and maintain an orderly flow of [supply of such products] in interstate and foreign commerce." Similarly, the Fair Labor Standards Act (29 U.S.C. 201, et seq.) speaks of the effect of "labor conditions detrimental to the * * * minimum standard of living necessary for health, efficiency and general well-being of workers" upon "the orderly and fair marketing of goods in commerce." See also the declaration of policy in section 1 of the National Labor Relations Act (29 U.S.C. 151 et seq.).

Experience shows that discrimination and segregation, when widely practiced throughout sections of the country, have a markedly adverse effect upon the interstate flow of both capital and goods. Capital is reluctant to invest in the region. Skilled or educated men who will be the victims of discrimination are reluctant to settle in the area even when opportunities are available. The inferior economic position to which general discrimination and segregation relegate a large segment of the population in some regions reduces their purchasing power, thus reducing the flow of goods and the incentive to bring capital into the area. It is perfectly apparent that Congress may legislate with respect to such conditions.

4. Elimination of causes of disruption in the flow of interstate commerce

There is a parallel congressional power to eliminate the causes of disputes that may curtail the flow of interstate commerce—power which was recognized and sustained in a number of decisions under the National Labor Relations Act. These decisions show that Congress may, by legislation, deal with labor disputes which halt production or the resale of manufactured goods because, based on the Federal interest in the elimination of obstructions to the free flow of commerce, there is a corresponding power to remove the causes of the disputes which are responsible for these obstructions. See *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1; *NLRB* v. *Suburban Lumber Co.*, 121 F. 2d 829, cert. denied, 314 U.S. 693; *J. L. Brandeis* v. *NLRB* 142 F. 2d 977, cert. denied, 323 U.S. 751; *NLRB* v. *Reliance Fuel Corp.*, 371 U.S. 224.

Disputes involving racially discriminatory practices of places of public accommodation frequently give rise to picketing and other demonstrations which interfere with interstate travel and with the sale of goods and thus affect interstate commerce in precisely the same manner as would labor disputes involving such establishments.

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Thus, insofar as the coverage of section 201 is based on an effect on commerce, the provisions of that section are clearly supported by a long line of decisions interpreting the power of Congress over interstate commerce. Nothing in the *Civil Rights* cases, 109 U.S. 3, creates any question as to congressional power under the commerce clause. In its decision holding the public accommodations provisions of the Civil Rights Act of 1875 beyond the power of Congress under the 14th amendment, the Court did not pass upon the power of Congress to enact similar legislation under the commerce clause. It had been argued to the Court that the act was effective at least as to public conveyances, since they were plainly in interstate commerce, but the Court felt that "as the sections in question are not conceived in any such view," the statute could not even be considered under the commerce clause and had to stand or fall on the power of Congress under the 14th amendment (109 U.S. at 19).

The fact that the proposed civil rights bill rests ultimately on a concept of justice and morality presents no reason for Congress not to avail itself of its powers over interstate and foreign commerce. Congress may exercise its commerce power to prevent injuries to "the public health, morals or welfare." *United States* v. *Darby*, 312 U.S. 100, 114. See also *Lottery Cases*, 188 U.S. 321; *Hipolite Egg Co.* v. *United States*, 220 U.S. 45; *Caminetti* v. *United States*, 242 U.S. 470. "The authority of the Federal Government over interstate commerce does not differ in extent or character from that retained by the States over intrastate commerce." *United States* v. *Rock Royal Cooperative*, 307 U.S. 533, 569–570. Congress power over interstate commerce "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution." *Gibbons* v. *Ogden*, 9 Wheat, 1, 196. Congress has frequently exercised its powers over interstate commerce to protect the public health, safety and morals, to protect various groups in society from exploitation or unjust treatment, and to prohibit or regulate practices deemed injurious to the public welfare.[4]

II. THE 14TH AMENDMENT

Section 1 of the 14th amendment provides that—

"No State shall * * * deny to any person * * * the equal protection of the laws."

Section 5 provides that "Congress shall have power to enforce by appropriate legislation, the provisions of this article."

On its face the amendment is aimed at discrimination by a State, and laws enforcing the amendment must therefore be aimed at State action. As the Supreme Court recently stated in *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 722:

"It is clear, as it always has been since the *Civil Rights Cases*, [109 U.S. 3] that 'Individual invasion of individual rights is not the subject matter of the amendment,' at page 11, and that private conduct abridging individual rights does no violence to the equal protection clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it."

To the same effect see *Shelley* v. *Kraemer*, 334 U.S. 1, 13; *Peterson* v. *Greenville*, 373 U.S. 244, 247.

In the *Civil Rights* cases, 109 U.S. 3, the Court held invalid sections 1 and 2 of the Civil Rights Act of 1875. Section 1 declared the right of all persons to the full and equal enjoyment of "the accommodations, advantages, facilities and privileges of inns, public conveyances on land or water, theaters and other places of public amusement." Section 2 made it a crime for "any person" to deny such rights to any other person. Because the statute "makes no reference whatever to any supposed or apprehended violation of the 14th amendment on the part of the States" (109 U.S. at 14), it was held to be beyond the power of Congress. The 14th amendment, and Congress' power to enforce it, were limited, in the Court's view, to cases in which "some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the 14th amendment." 109 U.S. at 13.

The provisions of title II, insofar as they rely on the 14th amendment, are limited to situations in which the requisite "State action * * * has been taken." Title II is therefore clearly distinguishable from the provisions of the Civil Rights Act of 1875 which were held unconstitutional in the civil rights cases. The constitutional validity of title II, insofar as it rests on the 14th amendment, is fully supported by the civil rights

[4] For a few out of the many examples, see the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq.; the Meat Inspection Act, 21 U.S.C. 71 et seq.; the Poultry Products Inspection Act, 21 U.S.C. 451 et seq.; the Plant Quarantine Act and related legislation, 7 U.S.C. 150–167; legislation regulating intrastate and interstate traffic in biological products, 42 U.S.C. 262; legislation prohibiting interstate traffic in lottery tickets, in liquor contrary to State law and in women for immoral purposes, 18 U.S.C. 1301 et seq., 1261 et seq., 2421 et seq.; prohibitions against interstate transmission of gambling devices and of switch blade knives, 15 U.S.C. 1171 et seq., 1241 et seq.; the Fair Labor Standards Act, 29 U.S.C. 201 et seq.; the Welfare and Pension Plans Disclosure Act, 29 U.S.C. 301 et seq.; the Labor-Management Relations Act, 20 U.S.C. 141 et seq.; the Federal Trade Commission Act, 15 U.S.C. 41 et seq.; the Securities Exchange Act, 15 U.S.C. 78a.

cases, as well as by later decisions applying the concept of State action.[5]

It is settled that judicial relief can be obtained against private individuals and organizations who engage in discrimination with which the State is sufficiently involved to warrant invocation of the 14th amendment. *E. G. Turner* v. *City of Memphis*, 369 U.S. 350 (action against city and a private restaurant); *Burton* v. *Wilmington Parking Authority, supra* (same); *Evers* v. *Dwyer*, 358 U.S. 202 (action against city and private transit company); *Browder v. Gayle*, 142 F. Supp. 707 (M.D. Ala.) aff'd, 352 U.S. 903 (same); *Flemming* v. *So. Carolina Electric and Gas Co.*, 224 F. 2d 752 (C.A. 4) (action against private transit company); *Baldwin* v. *Morgan*, 251 F. 2d 780, 287 F. 2d 750 (C.A. 5) (action against city officials and private terminal company); *Kerr* v. *Enoch Pratt Free Library*, 149 F. 2d 212 (C.A. 4) (action against privately endowed library); *Simkins* v. *Moses Cone Memorial Hospital* (C.A. 4, Nov. 1, 1963) (action against nonprofit hospitals).

A long line of decisions has made it clear that "State action," for purposes of the 14th amendment, is a broad concept which may be satisfied by any of a number of circumstances. Sufficient State involvement may result from "State participation through any arrangement, management, funds or property." *Cooper* v. *Aaron*, 358 U.S. 1, 4. Any significant "degree of State participation and involvement in discriminatory action" may bring it within the prohibitions of the 14th amendment. *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 724; *Peterson* v. *Greenville*, 373 U.S. 244, 248. As will be shown below, sections 201 and 202, the provisions of title II which rely on the 14th amendment are based upon a concept of State action or involvement well supported by judicial precedent.

Section 202 would preclude discrimination at any establishment or place "if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof." The section would reach only cases in which there is actually "on the books" a State or local law requiring discrimination.

Not only is it beyond dispute that any such law is patently unconstitutional, but it seems clear that racial segregation or discrimination which is or purports to be required by State law is prohibited by the 14th amendment. *Peterson* v. *Greenville*, 373 U.S. 244; *Lombard* v. *Louisiana*, 373 U.S. 267; *Gober* v. *City of Birmingham*, 373 U.S. 374. "When the State has commanded a particular result, it has saved to itself the power to determine that result and thereby 'to a significant extent' has 'become involved' in it, and, in fact, has removed that decision from the sphere of private choice." *Peterson* v. *Greenville, supra*, at 248.

Such a command has been found in a State statute, *Evers* v. *Dwyer*, 248 U.S. 202; a municipal ordinance, *Peterson* v. *Greenville, supra;* a regulation of a State agency, *Baldwin* v. *Morgan*, 251 F. 2d 780, 287 F. 2d 750 (C.A. 5); a practice of segregated seating in a courtroom, *Johnson* v. *Virginia*, 373 U.S. 61; and public statements of city officials, *Lombard* v. *Louisiana*, 373 U.S. 267. It is sufficient that the segregation or discrimination is "commanded * * * by the voice of the State," *Lombard* v. *Louisiana, supra*, at 274.

The cases draw no distinction based on the type of place or establishment involved. Segregation or discrimination commanded by the State has been held invalid in publicly owned facilities of every kind, *Watson* v. *Memphis*, 373 U.S. 526; in transportation facilities, *Bailey* v. *Patterson*, 369 U.S. 31; in restaurants, *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715; *Turner* v. *City of Memphis*, 369 U.S. 350; in retail stores, *Peterson* v. *Greenville, supra;* in hospitals, *Simkins* v. *Moses Cone Memorial Hospital* (C.A. 4, Nov. 1, 1963). And see, as to private employment. *Colorado Commissioner* v. *Continental*, 372 U.S. 714, 721.

These precedents amply support the constitutionality of section 202.

The constitutional propriety of that portion of section 201 based on the 14th amendment is no less clear. Section 201(b) would preclude discrimination or segregation at any of the establishments specifically enumerated in that section (e.g., hotels, motels, restaurants, and other eating facilities, gasoline stations, places of public entertainment) if such discrimination or segregation is "supported by State action." This provision thus is applicable only to situations in which the constitutional requirement of State action is met.

Section 201(d) provides that discrimination or segregation is supported by State action if it is "carried on under color of any law, statute, ordinance, regulation, custom, or usage." The quoted phrase is taken from section 1 of the Civil Rights Act of 1871, 42 U.S.C. 1983. The constitutionality of that provision, as an implementation of the 14th amendment, is clear. *Monroe* v. *Pape*, 365 U.S. 167, 171–187.

Section 201(d) also provides that discrimination or segregation is supported by State action if it is "required, fostered, or encouraged by action of a State or a political subdivision thereof." It has already been shown that action "required" by a State is State action under the 14th amendment. It is also clear that State action falling short of a requirement may constitute a sufficient degree of State "participation and involvement" to warrant a holding of State action in violation of the 14th amendment. "It is settled that governmental sanction need not reach the level of compulsion to clothe what is otherwise private discrimination with 'State action'." *Simkins* v. *Moses Cone Memorial Hospital* (C.A. 4, Nov. 1, 1963) (typewritten opinion, p. 17). See also *McCabe* v. *Atchison, T. & S.F. Ry. Co.*, 235 U.S. 151; *Baldwin* v. *Morgan*, 287 F. 2d 750, 754 (C.A. 5). "Overt State approval" may in some cases be sufficient. *Simkins* v. *Moses Cone Memorial Hospital, supra*, 17, 18. Indeed, in some circumstances, the failure of the State to prevent discrimination in facilities in whose operation it is involved may constitute State action to which the 14th amendment applies.

Depending on the circumstances, any of a number of factors, singly or in combination, may establish State action.

Thus, the fact that a private establishment is allowed to use publicly owned property and facilities, or receives substantial financial or other benefits from the State, may tend to establish State action. *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, *Turner* v. *City of Memphis*, 369 U.S. 350, *Simkins* v. *Moses Cone Memorial Hospital* (C.A. 4, Nov. 1, 1963). State action may be found in "State participation" in the functioning of an establishment or institution, "through any arrangement, management, funds, or property." *Cooper* v. *Aaron*, 358 U.S. 1, 4.

State action may be found in the grant by a State of special franchises or privileges or in the delegating to a private organization of quasi-governmental powers. In *Steele* v. *L.& N. R. Co.*, 323 U.S. 192, 198, the Court indicated that Congress could not confer exclusive bargaining rights on a labor union, without placing it under a duty to refrain from discriminating against Negro workers. See also *Brotherhood of Railroad Trainmen* v. *Howard*, 343 U.S. 768. Compare cases holding that the prohibition in the 15th amendment of denial of voting rights by a State on grounds of race, color, or previous condition of servitude "is not to be nullified by a State through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election." *Smith* v. *Allwright*, 321 U.S. 649; *Terry* v. *Adams*, 345 U.S. 461, 466. Like principles appear to preclude segregation or discrimination by public utilities which are executing public functions. *Baldwin* v. *Morgan*, 287 F. 2d 750, 755 (C.A. 5); *Boman* v. *Birmingham Transit Co.*, 280 F. 2d 531 (C.A. 5); cf. *Pollak* v. *Public Utilities Commission*, 191 F. 2d 450 (C.A.D.C.), reversed on other grounds, 343 U.S. 451. Mr. Justice Douglas has expressed the view that State licensing and supervision of places of public accommodation constitute sufficient State involvement to make applicable the prohibitions of the 14th amendment. *Lombard* v. *Louisiana*, 373 U.S. at 281–3 (concurring opinion).

State action may under some circumstances be involved where the State lends its aid to the enforcement of discriminatory practices carried on by private persons. Thus in *Shelley* v. *Kraemer*, 334 U.S. 1, the Court held that judicial enforcement of private restrictive covenants constituted State action in violation of the 14th amendment. The Court characterized the case as one in which the States "have made available" to individuals desiring to impose racial discrimination, "the full coercive power of government." 334 U.S. at 19. See also *Barrows* v. *Jackson*, 346 U.S. 249; *Boman* v. *Birmingham Transit Co.*, 280 F. 2d 531 (C.A. 5); *Lombard* v. *Louisiana*, 373 U.S. at 278–81 (concurring opinion). Coercion applied by public officials, whether or not authorized by State law, may constitute State action. *Lombard* v. *Louisiana*, 373 U.S. 267, 273.

The foregoing illustrations are neither comprehensive nor exhaustive. While the concept of State action cannot be circumscribed by "readily applicable formulas," and while the existence of State action "can be determined only in the framework of the peculiar facts or circumstances present," *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 725, 726, the language of sections 201 (b) and (d) clearly would not extend to any case where, as a matter of constitutional law, State action is not present; hence there can be no doubt of its constitutionality as an implementation of the 14th

[5] Of course, arguments could be made for reconsidering and distinguishing or overruling the civil rights cases. Thus it could be urged that historically, public segregation is the product of and has been supported by State action; that Congress' power to enact "appropriate legislation" confers power to take in whatever additional area is necessary to make effective its prohibition of the use of State action causing and supporting racial discrimination and to undo the consequences of such action, compare *Everard's Breweries* v. *Day*, 265, U.S. 545; and that if Congress finds that the most effective way of eliminating unconstitutional State support for nongovernmental discrimination is to forbid all discrimination, the courts should sustain that determination as a rational one in light of the facts. However, to draft title II so as to make its constitutional validity depend on such theories would raise serious constitutional questions and would delay its practical effectiveness until a definitive constitutional adjudication could be had. These difficulties are avoided by H.R. 7152, which is clearly consistent with and supported by well-settled precedents.

amendment. Moreover, it should be noted that section 201 does not extend to all establishments in which discrimination may be "supported" by the State; section 201 covers, even with regard to State action, only those establishments within the specific categories defined in the section; i.e., hotels, motels, eating places, gasoline stations, places of amusement, etc. This limitation on its coverage, coupled with the fact that enforcement of the section is dependent upon a prior judicial determination that an establishment is covered, gives the section a more than adequate specificity of application.

III. THE 13TH AMENDMENT

It has also been suggested that additional support for the constitutionality of title II may be found in the 13th amendment, which outlaws slavery and involuntary servitude and authorizes Congress to enact appropriate legislation enforcing that prohibition. Unlike the 14th amendment, the 13th amendment contains no requirement of State action. It "denounces a status or condition, irrespective of the manner or authority by which it is created." "Congress may enforce the 13th amendment by direct legislation" which "operates directly on every citizen of the Republic." *Clyatt* v. *United States*, 197 U.S. 207, 216, 218. See 18 U.S.C. 1581; *United States* v. *Gaskin*, 320 U.S. 527. Thus the 13th amendment, if applicable, would support those provisions of title II which are applicable to purely private action as well as those provisions of title II which are applicable to purely private action as well as those provisions which are premised on some form of State involvement.

The first Mr. Justice Harlan, in his dissent in the Civil Rights cases, argued that the 13th amendment permits Congress to prohibit not only the legal institution of slavery itself, but also the collateral burdens and incidents—the civil disabilities and inequalities—which either accompanied or followed it. He said, "the power of Congress under the 13th amendment is not necessarily restricted to legislation against slavery as an institution upheld by positive law, but may be exerted to the extent, at least, of protecting the liberated race against discrimination, in respect of legal rights belonging to freemen, where such discrimination is based upon race," 109 U.S. at 37.

While the most salient characteristic of the institution of slavery was the ownership of one person by another, this was by no means the only one. The slave system also encompassed the imposition on the slaves of many degradations, inferiorities, and disabilities designed to make impossible any relationship of equality between the slaves and their masters. Ownership of one human being by another was itself ended by the 13th amendment, but racial segregation, promoted by State law and other State action, replaced it as a device for perpetuating the inferior position of the Negroes. Outlawing of this substitute for slavery, it is argued, is also within the reach of congressional power and under the 13th amendment, which was intended, along with the 14th and 15th amendments, to raise the Negro to a position of first-class citizenship with full civil rights.

The majority of the Supreme Court did not adopt the first Mr. Justice Harlan's views, perhaps because at the time the Civil Rights cases were decided State-imposed racial segregation was not yet a widespread fact. It was only in the latter part of the 19th century that Jim Crow laws, requiring segregation in establishments dealing with the public, spread throughout the South. These were the laws which reimposed on the Negro the badge of inferiority from which the 13th amendment, as read by Justice Harlan, sought to relieve him, and it is these laws, and their aftermath, with which we must deal today.

Thus, the arguments advanced by Justice Harlan lend support to the constitutionality of Federal public accommodations legislation under the 13th amendment. It must be recognized, however, that there is no decisional law to support such an approach and that the scope of the power of Congress under the 13th amendment is unclear. Hence, the 13th amendment may be available, not as a primary source of constitutional power for title II, but as possible additional authority for legislation which is believed to be fully authorized by the commerce clause and the 14th amendment.

IV. TITLE II DOES NOT VIOLATE EITHER THE 5TH OR THE 10TH AMENDMENTS

It has been suggested that for Congress to require places of public accommodation not to discriminate would be a taking of private property without due process of law in violation of the 5th amendment and would interfere with powers reserved to the States under the 10th amendment. Both arguments are clearly without merit.

A. *The fifth amendment*

So far as the fifth amendment is concerned, any Federal regulatory legislation is, to a certain extent, a limitation on the use of private property. "It is of the essence of regulation that it lays a restraining hand on the self-interest of the regulated and that advantages from the regulation commonly fall to others." *Wickard* v. *Filburn*, 317 U.S. 111, 129. See also *German Alliance Insurance Co.* v. *Kansas*, 233 U.S. 389.

The type of regulation proposed in title II is hardly novel. Some 30 States presently have public accommodations laws forbidding racial or religious discrimination. Many of these laws date back to the period immediately after the Civil War.

The power of the Federal Government to pass such laws is also clear. See *Boynton* v. *Virginia*, 364 U.S. 454. "The authority of the Federal Government over interstate commerce does not differ in extent or character from that retained by the States over interstate commerce." *United States* v. *Rock Royal Cooperative*, 307 U.S. 533, 569–570.

B. *The 10th amendment*

The 10th amendment provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." In the annotation of the Constitution, Senate Document No. 170, 82d Congress, 2d session, page 915, it is pointed out:

"That this provision [the 10th amendment] was not conceived to be a yardstick for measuring the powers granted to the Federal Government or reserved to the States was clearly indicated by its sponsor, James Madison, in the course of the debate which took place while the amendment was pending concerning Hamilton's proposal to establish a national bank. He declared that: 'interference with the power of the States was no constitutional criterion of the power of Congress. If the power was not given, Congress could not exercise it; if given, they might exercise it, although it should interfere with the laws, or even the constitutions of the States.' "

Prior decisions invalidating Federal legislation on the ground of conflict with the 10th amendment were overruled, expressly or impliedly, in *United States* v. *Darby*, 312 U.S. 100, 123–124. It is clear that legislation enacted by Congress pursuant to a power delegated to the Federal Government by the Constitution cannot be validly attached upon the ground that it infringes upon rights reserved to the States by the 10th amendment. See *Everard's Breweries* v. *Day*, 265 U.S. 545, 558, in which the Supreme Court held that:

"If the act is within the power confided to Congress, the 10th amendment, by its very terms, has no application, since it only reserves to the States 'powers not delegated to the United States by the Constitution.' "

Similarly, speaking of legislation enacted by Congress pursuant to the enforcement clause of the 14th amendment, the Supreme Court has said that State sovereignty cannot, by definition, be invaded by the enactment of a law "which the people of the States have, by the Constitution of the United States, empowered Congress to act." *Ex parte Virginia*, 100 U.S. 339, 346.

THE LEGALITY OF THE PROVISIONS OF TITLE III

1. No increase in substantive Federal jurisdiction

Title III does not extend or increase the area of civil rights jurisdiction in which the Federal Government is authorized to act. It merely provides an additional remedy for the assurance of existing constitutional rights. In a long series of cases the courts have established that the right to desegregated public (governmental) facilities is protected by the 14th amendment. Just recently a three-judge court in New Orleans, enjoining segregation in that city's municipal auditorium held:

It is no longer open to question that a State (or city) may not constitutionally require segregation of public facilities. *Johnson* v. *Virginia*, 1963, 373 U.S. 61. In that case the Court held that a city may not segregate seating in courtrooms. In other cases courts have held that public parks and playgrounds (*Watson* v. *City of Memphis*, 1963, 373 U.S. 526), public beaches and bathhouses (*Dawson* v. *Mayor and City Council of Baltimore*, 4 Cir. 1955, 200 F. 2d 386, aff'd per curiam 1935, 350 U.S. 877), golf courses (*New Orleans City Park Improvements Ass'n* v. *Detiege*, 5 Cir. 1958 252 F. 2d 122, aff'd per curiam, 358 U.S. 54), and restaurants in public buildings (*Burton* v. *Wilmington Parking Authority*, 1961, 365 U.S. 715) may not be segregated. *Horace C. Bynum, et al.* v. *Victor H Schiro, etc., et al.* 219 F. Supp. 204, W.D. La. 1963.

2. It is proper to authorize the Attorney General to bring suit

In the Civil Rights Act of 1957, Congress expressly authorized the Attorney General to file suit for preventive relief against discriminatory denials of the right to vote (42 U.S.C. 1971(c)). The Supreme Court has held this provision to be constitutional. *United States* v. *Raines*, 362 U.S. 17, 27 (1960).

There is ample other precedent for suits by the Federal Government in cases where the real or incidental beneficiary would be a private person. Thus, the Sherman Act provides that the district courts have jurisdiction to restrain violations of the criminal sections of the act, and vests the Department of Justice with the power to institute proceedings to that end. Civil antitrust actions, of course, provide a benefit not only to the Government, but also to private persons and, in fact, violations provided by the Federal Government—either civilly or criminally, are often brought to light by the complaints of private parties.

Similarly, 15 U.S.C. 30a–34(d) authorizes the Securities and Exchange Commission to seek an injunction to prevent unlawful representations by investment companies. 33 U.S.C. 921(c) authorizes Federal officials to apply for a court order to enforce payment of a longshoremen's compensation award. Under the Taft-Hartley Act, the National Labor Relations Board may enter both cease and desist orders and affirmative orders to benefit employees (e.g., reinstatement with back pay) which are then enforced by way of injunction (29 U.S.C. secs. 160(c) and 160 (e)). Under the Fair Labor Standards Act (29 U.S.C. 201, et seq.) the Wage and Hour Administrator may sue employers on behalf of employees for back wages and unpaid overtime pay (29 U.S.C. 216(c)). Under the legislation dealing with reemployment rights

of servicemen, U.S. attorneys may appear and act as attorneys for persons claiming to be entitled to reemployment benefits under that act (50 U.S.C. App. 459(d)).

In all these instances, as in antitrust and in civil rights cases, there is often substantial benefit to a group of individuals. But, basically it is the public interest in observance of the laws which justifies suit by the Government. Indeed, it may be argued that there is a greater public interest in protecting the constitutional rights involved in title III than in enforcing the statutory rights which underlie many of the other cases in which a Federal governmental agency is authorized to bring suit.

THE LEGALITY OF THE PROVISIONS OF TITLE IV

1. Title IV does not create substantive rights

Title IV does not create any new rights for individuals or any new obligations for State and local officials. It merely provides an additional remedy for the assurance of existing constitutional rights. There can be no longer any doubt whatsoever that the right to be free from racial discrimination in public education is a real and present right protected by the Constitution of the United States. *Brown* v. *Board of Education*, 347 U.S. 483; *Aaron* v. *Cooper*, 358 U.S. 1; *Watson* v. *City of Memphis*, 373 U.S. 526.

2. The Attorney General may be authorized to sue

In the Civil Rights Act of 1957, Congress expressly authorized the Attorney General to file suit for preventive relief against discriminatory denials of the right to vote (42 U.S.C. 1971(c)). The Supreme Court has held this provision to be constitutional. *United States* v. *Raines*, 362 U.S. 17, 27 (1960).

There is ample other precedent for suits by the Federal Government in cases where the real or incidental beneficiary would be a private person. Thus, the Sherman Act provides that the district courts have jurisdiction to restrain violations of the criminal sections of the act, and vests the Department of Justice with the power to institute proceedings to that end. Civil antitrust actions, of course, provide a benefit not only to the Government, but also to private persons. Similarly, 15 U.S.C. 80a-34(d) authorizes the Securities and Exchange Commission to seek an injunction to prevent unlawful representations by investment companies. 33 U.S.C. 921(c) authorizes Federal officials to apply for a court order to enforce payment of a longshoremen's compensation award. Under the Taft-Hartley Act, the National Labor Relations Board may enter both cease and desist orders and affirmative orders to benefit employees, e.g., reinstatement with backpay, which are then enforced by way of injunction, 29 U.S.C. 160(c), 160(e). Under the Fair Labor Standards Act, 29 U.S.C. 201, et seq., the Wage and Hour Administrator may sue employers on behalf of employees for back wages and unpaid overtime pay, 29 U.S.C. 216(c). Under the legislation dealing with reemployment rights of servicemen, U.S. attorneys may appear and act as attorneys for persons claiming to be entitled to reemployment benefits under that act, 50 U.S.C. App. 459(d).

In these, as in antitrust and in civil rights cases, there is generally a direct or an incidental benefit to a group of individuals. Basically it is the public interest in adherence to the law which justifies suit by the Government. Indeed, there may well be a greater public interest in protecting the constitutional rights upon which title IV is based than in enforcing the statutory rights involved in other cases in which the United States is empowered to bring suit.

THE LEGALITY OF THE PROVISIONS OF TITLE VI

Title VI is not an exercise of regulatory authority over activities within the States. Its application is confined to programs and activities which receive Federal financial assistance, by way of grant, loan, or contract and its validity rests on the power of Congress to fix the terms on which Federal funds will be made available.

In extending financial assistance, Congress unquestionably has power to impose such reasonable conditions on the use of the granted funds or other assistance as it deems in the public interest. E.g., *United States* v. *San Francisco*, 310 U.S. 16 (1940); *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, 142–144 (1942). Since the recipients of assistance are under no legal obligation to accept Federal assistance on the terms prescribed by Congress, there is no invasion of powers reserved to the States by the 10th amendment. "[T]he powers of the State are not invaded, since the statute imposes no obligation but simply extends an option which the State is free to accept or reject." *Massachusetts* v. *Mellon*, 262 U.S. 447, 480 (1923). Accord: *Steward Machine Co.* v. *Davis*, 301 U.S. 548, 598–598 (1937); *United States* v. *Bekins*, 304 U.S. 27, 51–54 (1938); *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, 142–146 (1947).[4]

In the last-mentioned case the Court sustained the constitutionality of provisions of the Hatch Act requiring dismissal, for political activities, of State officials administering programs supported by Federal funds. The Court stated, "While the United States is not concerned with, and has no power to regulate, local political activities as such of State officials, it does have power to fix the terms upon which its money allotments to States shall be disbursed." 330 U.S. at 143.

Congress power to attach reasonable conditions to its grant of financial assistance may be exercised by general, across-the-board legislation. Examples of such legislation are the Work Hours Act of 1962 (Public Law 87-581, 76 Stat. 357) and the Anti-Kickback Act of 1934 (18 U.S.C. 874, 41 U.S.C. 276c) both applicable generally to contracts for work financed by Federal loans or grants, and the Hatch Act (5 U.S.C. 118k, 18 U.S.C. 595) applicable generally to activities financed by Federal loans or grants. The constitutionality of the Hatch Act, as applied to State programs supported with Federal funds, was sustained in *Oklahoma* v. *Civil Service Commission, supra.*

The effect of title VI would be prospective only. Section 602 authorizes each agency to adopt nondiscrimination requirements, by rule, regulation or other requirement of general applicability, and to terminate assistance or take other appropriate action to secure compliance with such requirements. Such requirements would be applicable only to assistance given after their effective date. Hence no question would arise as to the authority of Congress to attach new conditions to grants already made or other assistance already given.

There can be no doubt of the power of Congress to prohibit racial discrimination in connection with programs authorized by it. Congress has prohibited racial discrimination in connection with certain Federal assistance programs. See annexed list of Provisions of Existing Federal Assistance Statutes Which Relate to Racial Discrimination. Similarly, in the exercise of its power to regulate commerce, Congress has prohibited unjust discrimination by railroads, buslines and airlines; those prohibitions have been construed to prohibit racial discrimination or segregation, and, as so construed, have been sustained by the courts. *Mitchell* v. *United States*, 313 U.S. 80 (1941) (railroads); *Henderson* v. *United States*, 339 U.S. 816 (1950) (railroads); *Boynton* v. *United States*, 364 U.S. 454 (1961) (buslines); *Fitzgerald* v. *Pan American World Airways*, 229 F. 2d 499 (C.A. 2, 1956) (airlines); *United States* v. *City of Montgomery*, 201 F. Supp. 590 (M.D. Ala., 1962) (airlines).

As noted in point 2, the executive branch has taken a number of actions to preclude racial discrimination or segregation in connection with Federal assistance programs. The validity of these actions has not been judicially challenged. It is well settled that, except to the extent Congress may have required or prohibited certain action, the executive branch has discretion to impose such conditions and requirements as it deems appropriate in entering into contracts and agreements. E.g., *United States* v. *Tingey*, 5 Peters 115, 127 (1831); *United States* v. *Linn*, 15 Peters 290, 315–6 (1841); *United States* v. *Hodson*, 10 Wall, 395, 406–8 (1870); *Jessup* v. *United States*, 106 U.S. 147, 151–2 (1882); *Muschang* v. *United States*, 324 U.S. 49, 63 (1945); *Kern-Limerick, Inc.* v. *Scurlock*, 347 U.S. 110, 116 (1954); *Arizona* v. *California*, 373 U.S. 546, 580 (1963).[5] By enacting title VI, Congress would thus confirm an authority which the executive branch is now exercising in many areas, and is believed to have ample power to exercise.

Indeed, a strong argument can be made that the Constitution requires that programs and activities receiving significant financial assistance from the United States refrain from racial segregation or discrimination. The fifth amendment prohibits racial discrimination or segregation by the United States, at least in the absence of a compelling justification. *Bolling* v. *Sharpe*, 347 U.S. 497 (1954); *cf. Hirabayashi* v. *United States*, 320 U.S. 81, 100 (1943); and see *Steele* v. *Louisville and Nashville R. Co.*, 323 U.S. 192, 198–9 (1944). The prohibitions of the 14th amendment against racial discrimination by the States extend to governmental action "designed to perpetuate discrimination." *Railway Mail Ass'n* v. *Corsi*, 326 U.S. 88, 94 (1945). They may extend to actions of private persons and organizations if the Government participates in those actions. *Cooper* v. *Aaron*, 350 U.S. 1, 4 (1958). If the Government, through such an arrangement, can be said to have "elected to place its power, prestige, and property behind the admitted discrimination," the courts may deem it a "joint participant" and hold the segregation or discrimination unlawful, *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 724, 725 (1961). In such circumstances, the Government may be under a duty to take affirmative action to preclude racial segregation or discrimination by private entities in whose activities it is a participant; *Burton* v. *Wilmington Parking Authority, supra.*

In *Simkins* v. *Moses Cone Hospital*, No. 8908, decided November 1, 1963, the U.S. Court of Appeals for the Fourth Circuit applied these principles to hold that the fifth amendment prohibited racial discrimination by nonprofit hospitals which had received Federal construction grants. One factor relied on by the court was the "massive use of Federal funds." (Slip op. p. 16.) The court emphasized that the application of these constitutional requirements to particular Federal assistance programs will depend on the particular circumstances. (Slip op. p. 16.)

Nevertheless, the decision, and the general trend of the authorities which it cites,

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[4] Grants-in-aid given on condition, are essentially contractual in nature. *McGee* v. *Mathis*, 4 Wall, 143, 155 (1866); *Burke* v. *Southern Pacific R.R. Co.*, 243 U.S. 669, 679–680 (1914). Loans and contracts are also clearly contractual. Congress has plenary authority to prescribe the terms on which the United States will contract, and the exercise of that authority involves no invasion of rights reserved to the States by the 10th amendment. E.g., *Perkins* v. *Lukens Steel Co.*, 310 U.S. 113, 127–129 (1940).

[5] As to the contractual nature of grants, loans, and other financial assistance, see note 4, supra.

indicates that, as to many of the Federal assistance programs to which title VI would apply, the Constitution may impose on the United States an affirmative duty to preclude racial segregation or discrimination by the recipient of Federal aid. In exercising its authority to fix the terms on which Federal funds will be disbursed (see *Oklahoma v. Civil Service Commission, supra*), Congress clearly has power to legislate so as to insure that the Federal Government does not become involved in a violation of the Constitution.

There is no constitutional right to notice and hearing, or to judicial review, in connection with actions terminating or refusing to grant or continue financial assistance. The power of the United States to fix the terms and conditions on which Federal funds will be made available includes the power to establish such procedures for passing on applications for assistance, and for terminating or withholding assistance, as appear to it appropriate. Except where Congress has provided by statute for judicial review, courts have not undertaken to review actions of Federal officials refusing or terminating grants, or otherwise relating thereto. *State of Arizona v. Hobby*, 221 F. 2d 498 (C.A.D.C. 1954); see *City of Dallas v. Rentzel*, 172 F. 2d 122 (C.A. 5, 1949); *Clement Martin v. Dick Corp.*, 97 F. Supp. 961 (W.D. Pa., 1959); *cf. Perkins v. Lukens Steel Co.*, 310 U.S. 113 (1940). Thus, the provisions of sections 602 and 603 for an express finding of noncompliance and for judicial review, go beyond anything required by the Constitution.

THE LEGALITY OF THE PROVISIONS OF TITLE VII

Section 701(b) of the bill declares that the provisions of title VII are necessary "to remove obstructions to the free flow of commerce among the States and with foreign nations" and "to insure the complete and full enjoyment by all persons of the rights, privileges, and immunities secured and protected by the Constitution of the United States." Title VII is amply supported by Congress' power to regulate commerce among the States and with foreign nations (article I, section 8, clause 3).[2]

Title VII covers employers engaged in industries affecting commerce, that is to say, interstate and foreign commerce and commerce within the District of Columbia and the possessions. The title also applies to employment agencies procuring employees for such employers and labor organizations engaged in such industries. In order to protect the free flow of commerce, Congress has previously legislated with respect to the practices of employees and labor unions in industries affecting such commerce, National Labor Relations Act, 29 U.S.C. 151, 152, 160; Labor-Management Reporting and Disclosure Act, 29 U.S.C. 401, 402. The power of Congress to legislate in this area is no longer subject to question, *National Labor Relations Board v. Jones and Laughlin Steel Corp.*, 301 U.S. 1 (1937); *Lawson v. United States*, 300 F. 2d 252, 254 (C.A. 10–1962), and the amount of commerce affected in any particular case is not a material consideration in determining Congress' constitutional power, *National Labor Relations Board v. Fainblatt*, 306 U.S. 601, 606 (1939). (See also *Mabee v. White Plains Publishing Co.*, 327 U.S. 178 (1946), holding the Fair Labor Standards Act, 29 U.S.C. 201 et seq., applicable to the business of publishing a daily newspaper, only about one-half of 1 percent of whose circulation is outside the State of publication.)

[2] Insofar as the title applies to commerce within the District of Columbia and the possessions of the United States, it is based on Congress' legislative authority over the District, article I, section 8, clause 17, and over the territories and possessions, article IV, section 3.

The term "affecting commerce" has a long history of judicial application under the National Labor Relations Act, *National Labor Relations Board v. Fainblatt, supra* at 606; *National Labor Relations Board v. Reliance Fuel Corp.*, 371 U.S. 224, 226 (1963), and thus there should be little difficulty as to its meaning. As the Court said in the *Polish National Alliance, etc. v. National Labor Relations Board*, 322 U.S. 643, 648 (1944):

"Whether or not practices may be deemed by Congress to affect interstate commerce is not to be determined by confining judgment to the quantitative effect of the activities immediately before the Board. Appropriate for judgment is the fact that the immediate situation is representative of many others throughout the country, the total incidence of which if left unchecked may well become far-reaching in its harm to commerce."

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. ABERNETHY. I notice in examining the various titles of the bill that an attempt is made to eliminate several alleged and various kinds of discrimination on the ground of race, color, religion or national origin. Did the gentleman's committee hear any testimony on any discriminations practiced against any people of this country because of their religion?

Mr. CELLER. We had testimony concerning religion. We did not have very much testimony of discriminations on the grounds of religion. You will notice in one of the titles, religion is left out.

Mr. ABERNETHY. I was going to come to that. Now what religion, or the people of what faith were discriminated against? And who was doing the discriminating?

Mr. CELLER. You are talking about title VI? We left it out.

Mr. ABERNETHY. I am not speaking of title VI just now. Who were the people who were being discriminated against because of religion, of what religious faith?

Mr. CELLER. We had very little evidence—I do not think we had any of it insofar as the Committee on the Judiciary is concerned that any particular sect or religion had been discriminated against.

Mr. ABERNETHY. Was any religion at all mentioned by name?

Mr. CELLER. There was religion mentioned. There was testimony.

Mr. ABERNETHY. I am not speaking in general terms—I am speaking of a specific religion.

Mr. CELLER. No, there was not.

Mr. ABERNETHY. There was not? All right, then.

Now what national origin—what group of that character have been discriminated against?

Mr. CELLER. There were discriminations mentioned concerning certain groups like Puerto Ricans.

Mr. ABERNETHY. They were not discriminated against then because of color?

Mr. CELLER. Well, they were discriminated against because of national origin.

Mr. ABERNETHY. You had testimony on Puerto Ricans. Let us go back to religion. Did you have any testimony on a specific religion?

Mr. CELLER. No, we did not.

Mr. ABERNETHY. Going to title VI, the gentleman made mention of the fact that the word "religion" was removed from title VI. Can the gentleman tell us why it is that the bill attempts only to eliminate the kind of discrimination referred to in title VI, discrimination with regard to race, color, or national origin only, but specifically omits discrimination as to religion?

Mr. CELLER. There was a good reason for that.

Mr. ABERNETHY. Will the gentleman enlighten us on it, please?

Mr. CELLER. Yes. There are organizations—religious organizations—churches and cathedrals and synagogues that have choirs, for example.

Mr. ABERNETHY. Protestants?

Mr. CELLER. Choirs. And you could not expect that a Catholic church would take in Jewish singers or that in a Jewish church you would have Catholic singers, therefore, there would have to be something in the nature of discrimination there, but rather than risk getting into a thicket of discrimination in that area, it was left out.

Mr. ABERNETHY. This title under discussion has to do with Federal assistance programs as I understand it. I do not know that it has anything to do with singing in a choir.

Mr. CELLER. I only have given an example. There may be an exclusion as to employees in a convent. There may be employees in a denominational college where it is required that people of certain faith do the particular kind of work that is required—and that is somewhat in the nature of discrimination if the authorities would only have those of a certain faith, consistent with the faith that dominates that college or seminary or that convent or academy and, therefore, it is essential to get the best talent and the best expertise they can for those kinds of jobs.

Therefore, they have to discriminate in favor of those of their religion.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, there is a specific reason why religion was left out of title VI. There was no evidence that there was a need to include religion on the question of discrimination.

Various members of the clergy of the different faiths appeared before the committee and testified that religious discrimination was not a question. We attempted to meet the problems as they arose. As a result, we did not include religion. That is the answer to the gentleman's question.

Mr. CELLER. I mentioned title VI. I meant title VII.

Mr. RODINO. Mr. Chairman, will the gentleman yield further?

Mr. CELLER. I yield.

Mr. RODINO. Father Cronin, representing the Catholic faith; Dr. Blake; and other members of the clergy appeared before the committee.

I quote from the testimony by Father Cronin, as shown on page 2030 of the hearings. Father Cronin stated:

I don't believe that need is very pressing at this time. There are remnants of religious discrimination in the United States, but compared to the instant problem before us, of the civil rights of the Negro community, these are very, very minor and peripheral and I would not have any feeling that this should be broadened; no.

Dr. Blake, in answer to a question by Mr. Foley, counsel of our committee, stated:

I would like to agree with Father Cronin in that too because one of the happy things that our joint testimony indicates is that the communications among the religious bodies have opened up in a very favorable way worldwide and certainly in the United States.

Dr. Eugene Carson Blake represents the United Presbyterian Church, United States of America, and represents the National Council of Churches. Rabbi Irwin Blank represented the Synagogue Council of America, and also appeared before the committee. Both made statements in a like manner.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. I should like to go back to the first question I propounded.

The gentleman, in answer to my question stated that the committee did take testimony that there was discrimination in this country involving religions but that no specific religion was referred to. If the gentleman is unable to point to the page of the hearings specifying which religious faith was discriminated against, I hope that at least, in revising his remarks, he will insert in the RECORD the faith or faiths he has referred to. Will the gentleman do that?

Mr. CELLER. I shall.

Mr. ABERNETHY. Whether they be Protestant, Catholic, Greek Orthodox, Jewish, or whatever faith; and who is doing the discriminating.

Will the gentleman do that?

Mr. CELLER. Yes.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from California.

Mr. ROOSEVELT. I thank the gentleman for yielding.

I say to my distinguished friend who just propounded the question, that information is in the RECORD of the hearings of the Committee on Education and Labor. There is specific reference to discrimination because of religion. I will insert it in the RECORD in order that the gentleman may refer to it.

Committee on Education and Labor hearings, Equal Employment Opportunity, (pt. I), 87th Congress, 1st session (1961), at pages 21–32, 33–37, 568–581, 581–595. Also, hearings, Equal Employment Opportunity, 88th Congress, 1st session (1963), at pages 117–122.

Mr. CELLER. The gentleman from Puerto Rico asked me earlier if this bill would apply to Puerto Rico with the same force and effect as if Puerto Rico were a State. I assure him that that is so.

Mr. McCULLOCH. Mr. Chairman, I yield myself such time as I may consume. I rise to support the civil rights bill, H.R. 7152, as amended.

The bill now before the committee has been ably and accurately discussed title by title by the chairman of the Committee on the Judiciary. It is, therefore, not necessary for me to cover the same ground. I should, however, say that the bill is comprehensive in scope, yet moderate in application.

There are no primary criminal sanctions provided in the legislation. A sincere effort has been made to eliminate from the bill all provisions which improperly invade personal liberty and the rights of States and other political subdivisions. Diligent and effective effort has been made to surround each title with judicial safeguards and administrative limitations in order that fundamental rights and liberties be protected. The bill before you is basically a good bill and a bill that faces a pressing need for enactment.

There is considerable pressure for civil rights legislation from certain quarters on the ground that unless legislation is enacted there will be rioting in the streets, heightened racial unrest, and the further shedding of blood. This kind of activity, in my mind, is highly improper and could do much to retard the enactment of effective civil rights legislation.

No people can gain lasting liberty and equality by riot and demonstration. Legislation under such threat is basically not legislation at all. In the long run, behavior of this type will lead to a total undermining of society where equality and civil rights will mean nothing.

Behavior of this type also creates the false sense of hope that once legislation is enacted, all burdens of life will dissolve. No statutory law can completely end discrimination, under attack by this legislation. Intelligent work and vigilance by members of all races will be required, for many years, before discrimination completely disappears. To create hope of immediate and complete success can only promote conflict and result in brooding despair.

Not force or fear, then, but belief in the inherent equality of man induces me to support this legislation.

I believe in the right of each individual to have his constitutional rights guaranteed. On the other hand, he must always be prepared to shoulder the obligations and to assume the burdens of citizenship.

I believe in the right and duty of State and local authority to be primarily responsible for the conduct of all but limited areas of governmental activity, which it cannot do alone. But, I also believe in the obligation of State and local governments to ever work for the common good.

I believe in the effective separation of powers and in a workable Federal system, whereby State authority is not needlessly usurped by a centralized government. But, I also believe that an obligation rests with the National Government to see that the citizens of every State are treated equally, without regard to their race or color or religion or national origin.

Where, then, individuals, or governmental authorities, fail to shoulder their obligations, and only stress their rights, it is the duty of the Congress, under constitutional authority, to correct that wrong. To do less would be to shirk our responsibility as national legislators, and as human beings, who honor the principles of liberty and justice.

No one would suggest that the Negro receives equality of treatment and equality of opportunity in many fields of activity, today. Well-informed persons, everywhere, admit that in all sections of the country—North, South, East, and West—the Negro continues to face the barriers of racial intolerance and discrimination. Hundreds of thousands of citizens are denied the basic right to vote. Thousands of school districts remain segregated. Decent hotel and eating accommodations frequently lie hundreds of miles apart for the Negro traveler. Parks, playgrounds, and golf courses continue to be off limits to Negroes whose tax moneys go to support them. Many programs continue to be operated in a discriminatory manner. These, and many more such conditions, point the way toward the need for additional legislation.

In voting, the foundations of our Republic are enhanced by a free elective franchise. In public accommodations, the economy of our country and the enjoyment of its people are bolstered. In equal protection of our laws, the principle of justice is secured. In education, the superiority of our citizens and of our Nation is assured. In employment and Federal assistance, the opportunity and well-being of each individual is advanced and the taproot of the country's economy is strengthened. In every one of these categories, we will be doing ourselves, as well as our Nation, a lasting service by enacting H.R. 7152, as amended.

The constitutionality of certain titles of this bill has been questioned. Whether or not we all concur in the evolution of the law as it has developed at every step, I am of the opinion that the Constitution, as presently interpreted by the courts, supports each title. Congress has already acted in the field of voting. The Supreme Court has stricken down segregation in public education and publicly operated facilities. The Sherman, Taft-Hartley, Food-Drug-Cosmetic, and Fair Labor Standards Acts, and court interpretations thereof, have provided the legal support for the public accommodations and equal job opportunity titles under the interstate commerce clause of the Constitution. And, the Federal Government, through Congress, certainly has the authority, pursuant to the 14th amendment, to withhold Federal financial assistance where such assistance is extended in a discriminatory manner. The fact, moreover, that some 32 States have enacted public accommodations laws, frequently broader in scope than title I of H.R. 7152, as amended, 25 States have enacted fair employment legislation, and

many States have enacted other sweeping civil rights provisions clearly demonstrates that Congress will not be invading privacy, overturning the sanctity of private property, destroying personal liberties, or in other ways acting in an illegal manner.

Certain provisions in certain bills, as introduced or as reported by the House Judiciary Subcommittee, very likely exceeded constitutional authority, or were otherwise objectionable and unacceptable; for example, the provisions concerning the elimination of racial imbalance in education and the control over private institutions, such as banks and mortgage companies merely because they were insured by the Federal Government. Such provisions are not a part of H.R. 7152, as amended.

I wish to reiterate that this bill is comprehensive in scope, yet moderate in application. It is hedged about by effective administrative and legal safeguards, which seek to advance the cause of civil rights in the United States. The reason for moderation and necessary safeguards is obvious. Those of us supporting H.R. 7152, as amended, are desirous of presenting legislation which stands a good chance of enactment. Reality is what we live by and solid accomplishment is what we seek.

Of equal importance is the fact that we are a nation of many people and many views. In such a nation, the prime purpose of a legislator, from wherever he may come, is to accommodate the proper interests, desires, wants, and needs of all our citizens. To alienate some in order to satisfy others is not only a disservice to those we alienate, but a violation of the principles of our Republic. For only in compromise, moderation, understanding, and good will are we able to fashion our society into a cohesive and durable whole. I recommend H.R. 7152, as amended, to all my colleagues from wheresoever they may come.

Mr. WILLIS. Mr. Chairman, I yield myself 45 minutes.

Mr. Chairman, I will have something to say about many parts of the bill before you, but I have been assigned the task of discussing titles I and II in particular. Other members of the Committee on the Judiciary, opposed to this legislation, will in turn undertake to discuss titles III to X in greater detail.

If that is your wish, I will be glad to answer questions as we go along but I think it would be better to give my views first. In that way I think we could save time because I suspect I might anticipate many of your questions in my general statement.

Before proceeding, however, I would like to say this: We live in an age of polls, labels, and slogans. In these polls, however, you and I are always the ratees and we are never given an opportunity to rate our raters. I assure you, however, that I do not mind this at all because I regard it as a small price to pay for the rewards that come with public service.

Every year we must be rated by various and sundry groups and organizations such as ADA, ACA, AFL-CIO, NAM, AMA, PTA, NEA, Farm Bureau, and so on and on. And the strange thing is that on identical bills one group might rate us as conservatives, while another might rate us as liberals, each according to their peculiar and rigid notions of the meaning of these relative terms.

I take the ratings as they come and can only draw some consolation from Robert Burns lament, "Oh, would some power the giftee give us, to see ourselves as others see us."

And the same is true with reference to legislation. Bills are almost invariably given "quickie" labels to either pass or defeat them. For example, foreign aid is called the Mutual Security Act. An act to quiet the longstanding title of a State is called tidelands oil. The public works bill is called a pork barrel—and so ad nauseam.

But that is not all, sometimes one can choose between two labels. He can be for medical care for the aged or against socialized medicine. And if he has not read the bill, he can say that he is for medical care for the aged and against socialized medicine at the same time. But for us there is always a day of reckoning. Ultimately we must vote on merits and not on labels and take the consequences—and that, too, is a small price to pay for responsible representation.

Now, some call this legislation civil rights legislation while others call it civil wrongs legislation. But a rose is a rose by whatever name it is called. Therefore, let us consider the proposal not either as conservatives or liberals, or whatever, but as responsible Members and let us study it on the basis of content and not labels.

It is on that basis that I would like to present my views. But first a word about the broad provisions of the bill and how it got out of the Committee on the Judiciary.

Mr. WAGGONNER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. HOLIFIELD). The Chair will count. [After counting.] One hundred and thirteen Members are present, a quorum.

The gentleman from Louisiana is recognized.

HISTORY OF LEGISLATION AND BILLS INTRODUCED

Mr. WILLIS. The history of this legislation shows that the proponents became bolder and bolder as time went on, and wound up by employing tactics or procedures unprecedented during my period of service on the Committee on the Judiciary, in bringing it out of that committee.

As usual, many Members introduced various versions of civil rights bills during the last session of Congress. But the important bills to look at are the ones introduced by the Democratic chairman of the committee, the gentleman from New York [Mr. CELLER], and the senior Republican member of the committee, the gentleman from Ohio [Mr. MCCULLOCH].

On January 31, 1963, the gentleman from Ohio [Mr. MCCULLOCH], the senior Republican member on the committee, introduced H.R. 3139, containing four titles, as follows:

Title I: Making the Civil Rights Commission a Permanent Agency; Strengthening Equal Protection of the Laws in the Field of Education.

Title II: Equal Employment Opportunity by the Establishment of a Commission on Equality of Opportunity in Employment.

Title III: Assistance to States in the Field of Education.

Title IV: Literacy Tests, Establishing Presumption of Literacy in Federal Elections.

On April 4, 1963, the gentleman from New York [Mr. CELLER], the Democratic chairman of the committee, introduced H.R. 5455, entitled a bill to enforce constitutional rights and for other purposes, in the field of education only.

And, on the same date, he introduced H.R. 5456 to extend the life of the Commission on Civil Rights for 4 years.

Finally, on June 20, 1963, the gentleman from New York [Mr. CELLER], the Democratic chairman of the committee, introduced H.R. 7152, containing eight titles, as follows:

Title I: Voting Rights.

Title II: Injunctive Relief Against Discrimination in Public Accommodations.

Title III: Desegregation of Public Education.

Title IV: Establishment of Community Relations Service.

Title V: Commission on Civil Rights.

Title VI: Nondiscrimination in Federally Assisted Programs.

Title VII: Commission on Equal Employment Opportunity.

Title VIII: Miscellaneous.

HEARINGS AND PRELIMINARY ACTION OF THE COMMITTEE

To be sure, general hearings were held over quite a period of time; but the subcommittee came out with a complete substitute of its own, going far beyond both the scope and coverage of the bills as introduced, and the hearings thereon. The substitute then came up before the full committee for consideration in executive session. After some discussion even the most ardent supporters of civil rights legislation said or pretended to say that they could not stomach it. The Attorney General himself appeared before the committee in executive session and testified as follows:

> Title III would extend to claimed violations of constitutional rights in State criminal proceedings or in book or movie censorship; disputes involving church-state relations; economic questions such as allegedly confiscatory ratemaking or the constitutional requirement of just compensation in land acquisition cases; the propriety of incarceration in a mental hospital; searches and seizures; and controversies involving freedom of worship, or speech, or of the press.
>
> Obviously, the proposal injects Federal executive authority into some areas which are not its legitimate concern and vests the Attorney General with broad discretion in matters of great political and social concern.
>
> To illustrate: Which types of disputes should the Attorney General make a matter of Federal concern? Should he exempt disputes involving reading of the Bible in classrooms? If so, on what basis? What criteria should he adopt to determine whether to intervene in a particular case of an arrest for investigation, for example, or the banning of a movie as obscene, or a claim that the rate set by a State public utilities commission is unreasonably low?

(See p. 2658 of his testimony in executive session.)

Mr. GILBERT. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I would prefer to defer until later. I really would.

Mr. GILBERT. I wish to ask one question.

Mr. WILLIS. I yield for one question.

Mr. GILBERT. I wish to clarify which title III the gentleman is talking about.

Mr. WILLIS. I will come to that.

Mr. GILBERT. It is not the title III which is in the bill before us today.

Mr. WILLIS. The gentleman is absolutely correct, and I will come to that.

After the Attorney General's testimony it was agreed that a motion would be made to strike out title III when the time came for amendments of the subcommittee substitute.

And it was readily admitted by a number of the proponents that the section of the subcommittee substitute bill dealing with voting rights, and providing that it would apply to both Federal and State elections was unconstitutional. The only question was, Who would offer the amendment when we reached the point when amendments would be offered to the subcommittee substitute?

I have been with the Committee on the Judiciary for over 15 years. I have great respect for all the members. I consider all of them to be close personal friends; and at the same time I think I know my way around a bit in the committee. And from what I heard and observed, I was completely satisfied that there would be important modifications made in executive session, including a modification of the title dealing with public accommodations and other provisions. It clearly appeared to me that we were making headway and that reason and calm deliberations were prevailing.

I must have been dreaming, because in the words of the Governor of Louisiana, Jimmy Davis, in the song, "You Are My Sunshine," "the other night as I lay sleeping I dreamed I held you in my arms, but when I woke I was mistaken," because whatever ray of sunshine of reason appeared to be penetrating the clouds of confusion was immediately taken away from us.

FINAL COMMITTEE ACTION

On October 29, 1963, the proponents took over the proceedings in a grand style.

Chairman CELLER offered a brandnew 56-page mimeographed substitute bill which he described as an amendment, and moved that the committee approve it. The chairman announced that he would recognize a member of the committee to move the previous question, and if it were ordered, that no amendments could be offered to his proposal; no debate had, and no questions asked or answered.

The bill was, upon order of the chairman, read hastily by the clerk, without pause or opportunity for amendment. Several members of the committee repeatedly requested to be permitted to ask questions, have an explanation of the bill, discuss it, consider its provisions, and offer amendments. The Chair refused to grant such requests or to recognize these members of the committee for any purpose. After the reading of the bill in the fashion hereinabove described, the chairman announced that he would allow himself 1 minute to discuss the bill, after which he would recognize for 1 minute the ranking minority member, the gentleman from Ohio. This was an ostensible attempt to comply, technically, with the rules of the House but did not amount to debate, as debate is generally understood. Neither of these gentlemen discussed the bill for more than 1 minute; both of them refused to yield to any other member of the committee; and neither of them debated the bill nor discussed it in any fashion other than to say that they favored it. They made no effort in the 2 minutes consumed by both together, to even so much as explain the provisions of the bill. In short, there was no actual debate or even an opportunity for debate or to offer amendments. I doubt seriously that anyone really knew what he was voting on.

As stated in our minority report, in reciting these facts relating to the procedures employed in the full committee we do not do so in any captious spirit, but relate these facts to inform the Congress of the tactics employed to bring this bill before the House.

Mr. CELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. WILLIS. Yes. Gladly.

Mr. CELLER. Did not the chairman, myself, follow parliamentary procedure?

Mr. WILLIS. I did not make an allegation to the contrary. I said, in an ostensible attempt to comply with the rules. I have not made that accusation, but I will say to the gentleman, and in all kindness, that this ostensible compliance with the rules which enables you to ask me the question now, were the rules complied with, is not debate as you and I know it. Nor have you over the course of 15 pleasant years employed these tactics in our committee.

THE BILL REPORTED OUT

Now that we have had an opportunity to compare the bills as introduced, the subcommittee substitute and the full committee substitute, we can assert this. The subcommittee wrote a bill with little relation and less regard to the general hearings, and then the full committee rewrote the final product with no hearings at all and with no opportunity for debate or to offer amendments.

There has been a lot of talk concerning the watering down of the subcommittee substitute by the full committee. About the only thing that can be said in this respect is, that the full committee took out from, and then put back in many important provisions in the subcommittee substitute. I desire to list just a few glaring examples:

First. As indicated by his own testimony in executive session, previously quoted, title III, in one fell swoop, would have permitted the Attorney General to file suits in the broad field of civil rights. This short sentence stared you in the face and it looked awful. It dug a glaring, deep penetration like a single rifleshot. So this title was removed by the full committee, but in shotgun fashion little titles III were inserted here and there in the reported bill.

And to be sure that the grab for power by the Attorney General is complete, title X provides that nothing in this act shall be construed to deny, impair, or otherwise affect any right or authority the Attorney General already has—broad as those may be and whatever they may be.

Second. It has been generally reported that the full committee changed the subcommittee substitute so as to restrict this bill to Federal elections. But this is not so. Although the full committee substitute refers repeatedly to "any Federal elections," in the body of the bill, section 101(c) defines a Federal election to mean:

> Any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives.

This means that the bill before you does apply to local and State elections in at least 46 States of the Union.

Third. There was added in the bill reported out by the full committee, in section 101(d), the unprecedented provision that:

> In any proceeding instituted in any district court of the United States under this section the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case.

This provision giving the Attorney General the power to shop around for a quorum and special judges did not appear in any previous version of the bill.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. I yield to the gentleman.

Mr. CELLER. Of course the gentleman is aware of the fact that in a number of classifications——

Mr. WILLIS. Oh, I will come to that—generalities. I read the bill with a fine-tooth comb. If the gentleman finds any misstatement about specific provisions in this bill I will gladly yield. I know of other precedents and all that, or alleged precedents.

Fourth. Section 602 makes it the mandatory duty of every Federal department or agency to utilize the funds provided for Federal financial assistance, in every program or activity to enforce civil rights requirement. This mandatory requirement did not appear in the administration bill.

Fifth. The full committee substitute added section 202. This section would make unlawful discrimination or segregation of any kind on the ground of race, color, religion, or national origin at any establishment or place, if either purports to be required by any rule, order, and so forth, of any State or any agency or political subdivision thereof. This section is not limited to public places or facilities and did not appear in any previous version of the bill. It reaches homes, churches, cemeteries, funeral parlors, every place or establishment.

Sixth. Section 711(b) contains the following blanket and unlimited authority:

The President is authorized to take such action as may be appropriate to prevent the committing or continuing of an unlawful employment practice by a person in connection with the performance of a contract with an agency or an instrumentality of the United States.

This provision was not contained in the subcommittee proposal.

Seventh. Under section 201(b) and (c) an establishment is classified as engaging in interstate commerce if it "provides lodging to transient guests" or "if it serves or offers to serve interstate travelers." This broadens the coverage provided in the subcommittee proposal which made such classification if the accommodations, goods, and services "are provided to a substantial degree to interstate travelers" or if a substantial portion of the goods offered has "moved in interstate commerce." As to the latter requirements the wording of the bill is:

It serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells has moved in commerce.

It will, therefore, be seen that the bill reported out of the full committee covers any establishment, offering lodging to transient guests, even though it does not have guests traveling in interstate commerce. The bill also covers an establishment which offers to serve interstate travelers even though a substantial portion of the food which it serves, or other products which it sells, has not moved in interstate commerce.

Eighth. The House Committee on Education and Labor has jurisdiction over labor legislation. Accordingly, that committee reported out the so-called FEPC bill, H.R. 405. That bill is now pending before the Rules Committee.

A few witnesses appeared and suggested that it would be nice to tack the provision of that FEPC bill to the present one. But the administration had not asked for it; the Democratic chairman of the committee had not included it in his proposal, and the senior Republican member of the committee has not included such an FEPC proposal in his bill. And I can say as a fact that the committee members did not take the suggestion seriously—not at the time the suggestion was made anyway.

Yet, without having jurisdiction over the subject matter, without hearings, without as much as a by-your-leave, the FEPC provision of H.R. 405, reported out by another committee and pending before the Rules Committee, was incorporated as title VII of the bill under discussion.

Ninth. Under title IV the Commissioner of Education is granted broad new powers. Under title VI every agency and department of the Federal Government administering activities or programs involving Federal financial assistance is required to take ill-defined action, in addition to cutting out Federal funds. And, as previously pointed out, under section 711(b) the President is granted unlimited and blanket authority to take whatever action he deems appropriate concerning employment in such programs.

It is not my task to measure the depth and breadth of these provisions and other Members will discuss their full impact. But it can be seen that a concerted exercise of a combination of these powers would bring about these results:

Public and private schools and colleges benefiting from any Federal financial program are placed under Federal control in the handling of pupils, and the selection of faculty members insofar as they relate to race, color, or national origin and desegregation or discrimination in connection therewith.

I am quite sure that most, if not all, of the proponents would tell you that they do not intend such results, but there they are, nevertheless.

Well, what do we do? We could recommit the bill, or we could defeat the bill, or we could and must at the very least amend it to take care of harsh and drastic situations and results, above outlined, among others.

RECOMMITTAL, DEFEAT, OR AMENDMENT

I do not think it can be denied by any serious-minded and responsible Member or person that the bill now before you is the most drastic and far-reaching proposal and grab for power ever to be reported out of a committee of the Congress in the history of our Republic.

I am quite certain that the foregoing and many other harsh, open-ended and unlimited provisions would have been removed if the committee had been given an opportunity to debate and amend the bill in calm and deliberate executive session. And in my opinion, the right thing to do would be to recommit the bill to the Committee on the Judiciary for further consideration.

If the bill is not recommitted, and if it is not defeated, however, I have outlined at least some of the kind of meaningful amendments that should be offered on the floor. And in resolving any course of action, I again appeal to the membership to vote on it on the basis of merit and content and not on the basis of sectionalism, prejudice, and label.

TITLE I

I shall now identify some of the major weaknesses of title I of the bill—the title on voting rights, starting with the provisions of subparagraphs (A), (B), and (C) of section 101(a)(2) of the bill. These begin at page 38, line 16. They impose prohibitions on State election officials in connection with so-called Federal elections.

Our Constitution provides for popular election of Senators and Representatives in Congress. It also provides for the election of electors who select the President and Vice President of the United States.

The right to vote for these Federal officials is a sacred one. It is protected by the 14th amendment to the Constitution, which prohibits the States from denying to any person the equal protection of the laws, and by the 15th amendment, which says that the rights of citizens to vote shall not be denied or abridged by any State on account of race, color, or previous condition of servitude.

While article I, section 4 of the Constitution empowers Congress to "make or alter" regulations as to the "times, places, and manner of holding elections for Senators and Representatives," there is no similar provision with respect to elections of presidential electors.

Article II, section 1 merely provides that each State shall appoint its electors in such manner as the legislature thereof may direct.

What is more, and this is most important, the Constitution gives Congress no power to determine the qualifications of voters in elections of Federal officials but leaves this to the States.

Article I, section 2 provides that the electors of Representatives in Congress shall have the same qualifications as the electors of the lower—"most numerous"—house of the State legislature. The 17th amendment provides the same qualification rule for electors of U.S. Senators. And article II, section 1 gives State legislatures control of the manner of election of presidential and vice presidential electors.

To sum up a very simple situation—under the Constitution people who are qualified by State law to vote for members of the lower house of the State legislature, are also qualified to vote for Representatives and Senators in Congress, and for electors of the President and Vice President. States must not deny equal protection of the laws, or abridge the right to vote because of race or color. Congress can affect the "times, places, and manner" of holding congressional elections, but not of the election of presidential electors, and it has no power over qualifications to vote.

With this simple situation in mind, let us look at the bill. Subparagraph (A) of section 101(a)(2) says that no person acting under color of law shall "(A) in determining whether any individual is qualified under State law or laws to vote in any Federal election, apply any standards, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualfied to vote."

If this means that no State official shall deny or abridge the right of citizens to vote on account of race or color, or shall deny any person the equal protection of the laws, I am for it all the way. Because that is what the Constitution says in the 15th and 14th amendments. In other words, if subparagraph (A) means that no State officer shall discriminate with respect to voting rights by applying different voting qualifications to different persons because of their respective race or color, it is already the law. But the import of the subparagraph is to permit an encroachment on the constitutional power of the States to establish qualifications of voters.

The same is true of subparagraph (B) which begins at line 3 on page 39 of the bill. This subparagraph provides that no person acting under color of law shall "(B) deny the right of any individual to vote in any Federal election because of an error or omission of such individual

on any record or paper relating to any application, registration, payment of poll tax, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election."

Here again, no one, least of all I, wants an applicant for voting registration to be turned away on the pretext of an error or omission that is not material to his qualifications. But here, again, the question is one of qualification to vote under State law. And here, again, the bill takes the determination of the qualifications away from the States. The Constitution placed it in the States. How, in the absence of a violation of the 14th and 15th amendments, can it be taken away? Yet that is what the bill does.

There is no precise way of measuring how grave an error or omission must be before it is "material" to the qualifications of a voter. The Constitution gave the question of qualifications to the States. The bill would give it to the Federal courts, again without any showing that the purported "immaterial" error or omission was used as a pretext for discrimination because of race or color. Mere nonuniformity among registrars is made the legal equivalent of deliberate discrimination. What is more, there is no reason to believe, and the committee had no basis for assuming, that Federal judges will be wiser or more consistent in their appraisal of what is "material" than the local registrars.

Thirdly, I turn to subparagraph (C) at line 10 of page 39. This provides that no person acting under color of law shall "(C) employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual wholly in writing except where an individual requests and State law authorizes a test other than in writing, and (ii) a certified copy of the test whether written or oral and of the answers given by the individual is furnished to him within 25 days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960."

Subparagraph (C) constitutes another unwarranted interference with the States with respect to their constitutionally granted power to determine eligibility to vote. There can be no denial that the form and content of a literacy test is an element in the establishment of a voter's "qualifications" as that term is used in article I, section 2 and in the 17th amendment, which relate to electors of Representatives and Senators respectively. It is, therefore, a prerogative of the States and not of the Congress. Finally, this prohibition of oral literacy tests is made to apply without regard to whether the test is used to discriminate on account of race or color in violation of the 15th and 14th amendments. Here again the Judiciary Committee lacks sufficient factual basis to support the blanket inference that the mere use of oral literacy tests, in and of itself, with nothing more shown, violates the constitutional injunction against discrimination in voting because of race or color.

These provisions of the bill, in my opinion, are unconstitutional substitutions of the judgment of Federal courts for the judgments of State officials. Their enactment would open a Pandora's box of further confusion in Federal-State relationships.

But the bill goes further than merely interfering with the right of the State legislatures to establish and administer their own qualifications for voting. In section 101(b) it establishes an affirmative test of its own. Section 101(b)—at page 40, line 7—provides that in any voting suit a person who has completed the sixth grade shall be presumed to have sufficient literacy to vote in any Federal election.

Let me make myself entirely clear. I personally agree that such persons should be allowed to vote. The exercise of the franchise should be universal and any literacy bar to voting should be minimal indeed. But this cannot disguise the fact that the Federal presumption created by section 101(b) establishes a qualification for voting. The Supreme Court has repeatedly ruled that the States, and only the States, have the right to establish voter qualifications. Usurpation of this right by act of Congress is clearly unconstitutional.

Nor can much comfort be found in the fact that this presumption of literacy is declared to be rebuttable. In a court case the State voting registrar would have the burden of proving by a preponderance of evidence that the voter applicant is illiterate. If the applicant can avoid a literacy test, this burden would be considerable.

In short, as written, title I goes far beyond denying or abridging the right to vote on account of race or color. It does not even mention race or color. It goes far beyond guaranteeing equal protection of the law to all citizens. If that's all it did I would be for it. What it does is to provide for the qualification of voters, and to control the election process in elections of Federal and State officials from Governors, on down to mayors, sheriffs, and justices of the peace.

Another innovation of title I is found in section 101(d) of the bill which authorizes the Attorney General, at his unreviewed discretion, to demand a three-judge court to hear and determine any voting suit. The chief judge of the circuit would have no choice but to comply with the Attorney General's request. Although one of the judges must be from the district in which the suit is instituted, the other two need not. This provision enables the Attorney General, when he has no confidence in a particular district judge, to convert that judge into a minority of a three-judge panel, if, indeed he is appointed to the panel at all.

It is difficult to understand why this provision, which did not appear in the administration bill nor in the subcommittee substitute, should now make its appearance. It is extremely difficult to perceive why, in this troubled field the Attorney General should have what amounts to a preemptory challenge to the district judge before whom the case would normally be tried. I seriously question whether such a flagrant form of forum shopping should be encouraged; least of all, should it be provided as an exclusive privilege of the plaintiff Government.

TITLE II

Just like good engineers construct our highways with separate lanes of traffic, so our Founding Fathers erected constitutional walls separating the functions of our Government into three branches—the legislative branch, the executive branch, and the judicial branch.

When a motorist drives out of his lane of traffic and occupies the lane of another, someone is going to get hurt.

And when one branch invades the functions of another branch, not only individual rights but the property rights of all the people will be impaired or destroyed.

As members of the legislative branch we are prone, in varying degrees, to condemn the other two branches, especially the judicial branch, for invading or intruding on our own functions. We insist that the function of the judicial branch is not to make laws but to interpret our laws in the light of the Constitution.

Yet, the legislative branch of our Government, in title II of this bill, undertakes to compel the courts to accept our interpretation of the Constitution, and especially the 14th amendment and the commerce clause, not only beyond and even contrary to the previous rulings of the courts, but beyond and contrary to the provisions of the Constitution itself. Let me give you two typical examples:

In the teeth of previous rulings of the courts to the contrary, title II undertakes to order that from here on the 14th amendment shall mean that the private owner of a place of business, such as a restaurant and many others, cannot choose his customers.

Despite previous court decisions, and beyond and contrary to the provisions of the commerce clause itself, title II undertakes to regulate intrastate commerce and to make a finding, intended to be binding on the courts, that the activities of the owner of a private establishment, such as a local hamburger stand, a local gasoline station, or a local grocery store constitutes interstate commerce.

Before discussing how and on what basis all of this is to be accomplished, let us consider certain fundamental provisions of the Constitution dealing with both civil rights and property rights.

We must and do respect all the provisions of the Constitution protecting the rights of the individual—the 5th amendment and other provisions of the Bill of Rights, the 14th amendment, and the 15th amendment, upon all of which civil rights are based.

But certainly without putting them above those dealing with individual rights, we must also respect and abide by the provisions of the Constitution dealing with property rights, upon all of which our system of free and competitive enterprise is based.

In fact, the 14th amendment protects the individual rights and property rights in the same sentence, which says:

No State shall deprive any person of life, liberty, or property without due process of law.

And the first 10 amendments—the Bill of Rights—sought to protect property rights as well as personal rights. The third amendment protects the houses of people. The fourth amendment protects the people as to their houses, papers and effects, as well as their persons. The fifth amendment protects life, liberty, and property, and specifically forbids the taking of private property for public use without just compensation. The seventh amendment protects the right of trial by jury in cases involving property, just as the sixth amendment does in cases involving life or liberty.

And then, in order to give full meaning to the foregoing, and to insure and preserve the stability of all private agreements and commercial transactions, the Constitution adds the clincher that no State shall make a law impairing the obligation of contracts. What contracts? A sale, a lease, a note, a bond—any and all contracts freely and voluntarily entered into—verbally or in writing, written or spoken.

What is "property"? In its strict legal sense, "property" signifies that dominion or indefinite right of use, control, and disposition which one may lawfully exercise over particular things or objects. As so used, the word signified the sum of all the rights and powers incident to ownership. So defined, property is composed of certain constituent elements, including the unrestricted right of use, enjoyment, and disposal of the particular subject of property. Owners of real estate have the right under the Constitution to use, lease, and dispose of it for all lawful purposes. The right of free and untrammeled use for legitimate purposes is fundamental and within the protection of the Federal Constitution.

The sum total of all of the foregoing constitutional provisions and the foregoing illustrations of the meaning of property and property rights is the foundation of our free and competitive enterprise system, just as the sum total of the foregoing constitutional provisions dealing with individual rights is the foundation of all civil rights. And under our Constitution we can no more protect individual rights by impairing or destroying property rights than we can protect property rights by impairing or destroying individual rights. Nor can one freedom be advanced or protected by impairing or destroying others.

Title II of the bill draws under Federal control inns, hotels, motels, and other lodging houses, restaurants, cafeterias, lunchrooms, soda fountains, gasoline stations, motion picture houses, concert halls, theaters, sports arenas, stadiums, and other places of exhibition and entertainment.

Having named these categories of private business establishments, the bill adds a "catchall" category. Any retail establishment in which one of the foregoing categories of business places is located, or any retail establishment located in any of these categories, is covered. Therefore, if a lunch counter is in a drug store or a department store, the entire store is covered. If a doctor or lawyer has an office in a hotel building, he is covered.

In executive session, the Attorney General expressed concern about the broad coverage of the subcommittee substitute. He said:

What businesses are covered by this provision (in the subcommittee substitute) are unclear—I have no objection to broadening the bill's reliance on the 14th amendment or broadening its scope if the Congress so desires. But invoking the 14th amendment generally is no substitute for specifying the establishments which Congress, enacting national law to solve a national problem, intends to cover.

Yet, the full committee added a new section—section 202—covering "any establishment or place if segregation is required by law or by order of a State."

The provisions of section 202 were not included in the administration bill or the subcommittee substitute. Its inclusion in the reported bill marks the blanket character of this legislation.

And the same can be said of the provisions of section 201 (b) and (c) which, as I have shown, broaden the coverage of the measure to include establishments which provide lodging to transient guests irrespective of their travel in interstate commerce—or if they "offer to serve" interstate travelers—irrespective of whether or not any substantial quantity of the food, gasoline, et cetera, has moved in interstate commerce.

Title II is said to be based on two concurrent constitutional provisions. The foregoing enumerated establishments are found by Congress to be "places of public accommodation" and are covered, first, if they affect interstate commerce, or second, if segregation is "supported" by State action. The word "supported" is defined as meaning that segregation, first, "is carried on under color of law, statute, ordinance, regulations, custom or usage, or second, is required, fostered, or encouraged by action of a State."

The constitutional grounds utilized in title II reflect new extremes in the attempted application both of the commerce clause and of the 14th amendment.

You will be hearing a great deal about the commerce clause in our Constitution. The exact clause reads as follows:

The Congress shall have power to regulate commerce among the several States.

That is all the clause says. It does not say that Congress shall have power to regulate commerce. It says that Congress shall have power to regulate commerce among the several States. In other words, Congress cannot regulate intrastate commerce; it can only regulate interstate commerce. And the commerce clause does not say that Congress has the right to regulate habits, customs, human behavior, morals, or attitudes; it can only regulate interstate commerce.

You will hear about court cases concerning the manufacture of goods and farming operations, and so on. There is no doubt that the courts have gone far in this field. But you can at least see and feel corn and wheat; you can measure and buy these grains by the ton, and you can put them in a truck or a boxcar and ship them across State lines. But that is a far cry from what the proponents of this bill would twist the commerce clause to mean. And so even to those of you who are not lawyers, I ask you to remember the simple provision of the powers of Congress under the commerce clause, that is to regulate commerce among the several States.

In respect of "commerce" title II indulges the presumption that "transients" generate "commerce" and that offers to serve travelers affect "commerce." In the area of the 14th amendment and the concomitant requirement of some sort of "State action," it equates "custom and usage" to affirmative action by a State. In both respects, title II constitutes a novel and dangerous experiment in political theory. Its adoption could work a revolutionary change in the existing balance of Federal-State relationships.

In my opinion, however, the attempted utilization of the 14th amendment and the commerce clause to support title II cannot be defended on constitutional grounds. You are well aware of the decision of the Supreme Court in the *Civil Rights* cases—109 U.S. 3—which held squarely and unequivocally that the act of Congress of 1875, entitled "An act to protect all citizens in their civil and legal rights" and proposing to do exactly what is proposed to be done by title II, was unconstitutional and could not be supported under the 14th amendment.

Since my guess is as good as anyone's, I venture to say that the reason no effort was made to base the 1875 Statute on, or to justify it under, the commerce clause was because of the feeling that there was far less chance to support its constitutionality on the commerce clause than there was to have its constitutionality upheld under the 14th amendment.

One of the recent decisions of the Supreme Court of the United States reaffirming the principles announced in the Civil Rights cases is that of *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 6 L. ed. 2d 45 (1961), in which the Court said:

The *Civil Rights* cases, 109 U.S. 3 (1833), "embedded in our constitutional law" the principle "that the action inhibited by the first section (equal protection clause), of the 14th amendment is only such action as may fairly be said to be that of the States. That amendment erects no shield against merely private conduct, however discriminatory or wrongful."

As late as May 20, 1963, in *Peterson* v. *City of Greenville*, 373 U.S. 244, the Supreme Court stated:

"Individual invasion of individual rights" is not within the purview of the 14th amendment, and "private conduct abridging individual rights does no violence to the equal protection clause."

In his concurring opinion in the Peterson case, Mr. Justice Harlan said:

Freedom of the individual to choose his associates or his neighbors, to use and dispose of his property as he sees fit, to be irrational, arbitrary, capricious, even unjust in his personal relations are things all are en-

titled to a large measure of protection from governmental interference.

In 1959 the Fourth Circuit Court of Appeals in the case of *Williams* v. *Howard Johnson*, 268 Fed. 2d 845, 847, stated clearly this well-recognized rule when it said:

This argument fails to observe the important distinction between activities that are required by the State and those which are carried out by voluntary choice and without compulsion by the people of the State in accordance with their own desires and social practices. Unless these actions are performed in obedience to some positive provision of State law they do not furnish a basis for the pending complaint. The license laws of Virginia do not fill the void.

It is clearly unconstitutional to bottom any claim of Federal control of State action upon "custom or usage" involving acts which constitute merely private conduct.

The attempt to base Federal regulation of public accommodations upon the interstate commerce clause is equally unconstitutional.

"The broken package doctrine" is succinctly stated by the Supreme Court in *Dahnke-Walker Co.* v. *Bondurant*, 257 U.S. 282, 290, as follows:

Where goods in one State are transported into another for purposes of sale, the commerce does not end with the transportation, but embraces as well the sale of the goods after they reach their destination, and while they are in the original packages.

The claim that the intrastate sale or renting of goods which have moved in interstate commerce is in itself interstate commerce is in the teeth of the long line of cases illustrated by the statement of Mr. Justice Brandies in *Pacific States Box & Basket Co.* v. *White*, 296 U.S. 176, 80 L. ed. 138:

The operation of the order is intrastate, beginning after the interstate movement of the containers has ceased, and after the original package has been broken.

That the basis used in this bill to attempt to transform intrastate commerce into interstate commerce is untenable, is demonstrated by the decision of the Court of Appeals of the Fourth Circuit quoted above, *Williams* v. *Howard Johnson*, 268 F. 2d 845 (1959) as follows:

We think, however, that the cases cited are not applicable because we do not find that a restaurant is engaged in interstate commerce merely because in the course of its business of furnishing accommodations to the general public it serves persons who are traveling from State to State. As an instrument of local commerce, the restaurant is not subject to the constitutional and statutory provisions discussed above and, thus, is at liberty to deal with such persons as it may select.

See also *Elizabeth Hospital, Inc.* v. *Richardson*, 269 F. 2d 167, decided by the Court of Appeals of the Eighth Circuit in 1959, which cites the decision of the Supreme Court supporting the rule as follows:

We think that the plaintiff's operation of a hospital, to include rendition of hospital services to some persons who came from outside the State, is no more engaging in interstate commerce than was Dr. Riggall in rendering medical services to persons who likewise came from other States. The fact that some of the plaintiff's patients might travel in interstate commerce does not alter the local character of plaintiff's hospital. If the converse were true, every country store that obtains its goods from or serves customers residing outside of the State would be selling in interstate commerce. Uniformly, the courts have held to the contrary. ALA *Schechter Poultry Corp.* v. *United States*, 1935, 295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570; *Lawson* v. *Woodmere*, 4 Cir., 1954, 217 F. 2d 148, 150; *Jewel Tea Co.* v. *Williams*, 10 Cir., 1941, 118 F. 2d 202, 207; *Lipson* v. *Socony-Vacuum Corp.*, 1 Cir., 1937, 87 F. 2d 265, 267, certiorari granted 300 U.S. 651, 57 S. Ct. 612, 81 L. Ed. 862, certiorari dismissed 301 U.S. 711, 57 S. Ct. 788, 81 L. Ed. 1364.

Congress cannot constitutionally enact a statute converting intrastate commerce into interstate commerce, as is here proposed, without upsetting every one of the original unbroken package cases and their long line of successors.

If Congress has the supposed power over hotels, motels and lodging houses here sought to be asserted, then Congress has the right to regulate them in every respect, even as to the rates they can charge for rooms. If Congress can say what guests they must take, then it can say what rates they must charge for their rooms, or even can tell them what they can put on their bill-of-fares, and maybe not to serve things that are objectionable to certain people.

If Congress can make a finding that the business of these private and independent operators constitutes "places of public accommodation," then we may as well make a finding that such private and independent businesses are "affected with a public interest" and regulate them like public utilities, guarantee them a return on their investment, or maybe just run them by the Government.

Mr. CELLER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we, the members of the Committee on the Judiciary, have a genuine fondness for the gentleman who has just spoken, the gentleman from Louisiana [Mr. WILLIS]. There is no one more just than he, no one more kind than our good friend from Louisiana. On the other hand, I should not let the occasion go by without countering one or two arguments he expressed. I have not the time now, but will under the 5-minute rule answer more materially some of the questions he raised.

He has referred to the fact that the Attorney General may shop around and get some particular judge. It is not a question of shopping around. There is a real evil in the situation. I want to say every provision of this bill is in the form of a remedy for some evil.

Why did we put in a provision for a three-man court? Incidentally, the matter of a three-man court is nothing novel. We have had three-man courts on many occasions. Let me recite some of the laws which we passed that provided for a three-man court: Restraint in trade and monopoly, antitrust suits we provided for the setting up of three-man courts, also in the regulation of rail carriers, in the regulation of motor carriers, in the regulation of water carriers, in the regulation of freight forwarders, and others coming under the Interstate Commerce Act. All those acts provide for three-man courts.

Why do we put in this particular provision; namely, title I? I will tell you why. We have some judges in the South on these civil rights cases who are dragging their feet for reasons best known to themselves. Cases have been on their dockets for months and months on end, and no action is taken. Congress by enacting the Civil Rights Acts of 1957 and 1960 took steps to guarantee to the ordinary citizen the right to vote without discrimination as to race and color. However, the experience in the implementation of these acts has disclosed very serious inadequacies in their operation.

First, lengthy and unwarranted delays have occurred in the course of court proceedings to vindicate voting rights. For example, a suit instituted in July 1961 in a certain parish in Louisiana, where 24,000 of 40,000 white eligibles were registered and only 725 of 16,000 eligible Negroes were registered is still pending after 2 years. So is the Negroes' right to vote. In the face of this kind of delays, and there are more than one such case, we provide that in order to expedite the situation the cases involving civil rights shall be placed at the head of the calendar and that shall be a solemn duty as an instruction from the Congress to the Federal judges. In order to shorten the delay, we provide that in a three-man court there must be one circuit judge and one district judge, and an appeal can be taken directly to the Supreme Court. That is done to shorten the appeal. There have been delays because of appeals and cross-appeals, motions and cross-motions, all these things that very astute lawyers are capable of, and they open trapdoors, and down go the rights of the applicant to vote or to register. That is why we put that provision in. We never would have put it in if it were not for that kind of delays.

My very good friend has spoken disparagingly of title I and what we had done concerning literacy tests, what we have done concerning voting. I am in thorough accord with the gentleman that the right to set up the qualifications for voting is an exclusive privilege of the States. When we say that schooling up to the sixth grade shall be a rebuttable proposition, as we do in this bill, that that individual is literate, that does not go to the qualification of the voter, that is a rule of evidence. It is not substantive. It is purely procedural. It means that in any kind of procedure the person who has had sixth grade schooling indicates that, and the presumption shall be in his favor, and the burden of proof shifts to the State to get evidence that he is nonetheless illiterate, and not literate, despite the sixth grade schooling. Then the person may be disallowed to vote. We do not touch the qualifications. The State can set up any qualification it wishes. We only provide that when it sets up qualifications there shall not be any distinction as between a white man and a Negro.

Mr. WILLIS. Mr. Chairman, I yield myself 3 minutes.

I appreciate my chairman's candor with reference to the reason for giving

the Attorney General power to assemble a three-judge court, because he said in all frankness this procedure would take care of the situation where certain Federal judges are dragging their feet; which is another way of saying the Attorney General does not have confidence in them. Now, what does that mean?

We were responsible for a bill having to do with sentencing procedures. We attended a very pleasant seminar where we met with all of the Federal judges of the United States. We learned, and it is true, that some Federal judges in bootleg cases will not send the defendant to jail and others will.

There are some tax cases where some might think the court is too easy and in others some might think the courts are rather too cruel.

There are some in compensation cases that will give a high award to the property owner. There are some, it is said, who might take up for the Government. There are many other areas of disparity. Would it not be nice, therefore, if we could fix it so that the Government could never lose a case. We could assemble a three-judge court to take care of judges who do not do right. We will take care of those who are too liberal—or too tough—in income tax cases. We will take care of those who in compensation cases are fair or unfair—depending upon the point of view of the Federal Government. Sure, gentlemen, and I might say, I cannot say that this provision is unconstitutional because the Congress does have the power over the judiciary and Congress exercised that power during or right after the Civil War to pass a bill to pack the Supreme Court to handle a case in a certain way according to the administration in power at that time. There are some of us who do not like certain decisions, but I have not introduced a bill to curb or dilute power of the courts and I do not intend to, to be frank with you. But now the other side comes—those who intimate that some of us are the ones who are too critical of the courts, and now they have no confidence in certain lower Federal judges.

In all frankness and candor, the chairman tells you to take care of those cases in a certain way. If we can do that and take care of that as responsible Members of the Congress, we can fix it so that the Federal Government will never lose a case.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. McCULLOCH. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I shall answer or attempt to answer some of the specific charges of that great constitutional lawyer and my good friend, the gentleman from Louisiana [Mr. WILLIS]. I need not, and I say this in the utmost candor and friendship, remind the gentleman of the Supreme Court decision of only recent weeks or months involving the State of Louisiana and its literacy tests in Federal court. I shall have more to say about that tomorrow.

In addition to what the chairman said was his reason for providing a three-judge court, I have an additional reason which I think is of equal, if not greater, importance. Mr. Chairman, there has been inordinate delay in the disposal of these civil rights cases notwithstanding the fact that we created some 80 additional new judgeships within the last 2 or 3 years. But, let me say this to you, Mr. Chairman, a court order permitting a man to vote is a hollow victory, when the order is handed down after the election has been held and the votes counted.

Mr. Chairman, in three-judge courts where the case is one of immediate importance and where the decision to be effective must be quickly made, there has been action and decision with much greater speed than in many of the one-judge Federal court.

Mr. Chairman, in addition to what the chairman of the Judiciary Committee has said, there is precedent for the three-judge court to determine cases that are of paramount importance. Mr. Chairman, this particular section of the bill, and again I shall have more to say about the specifics of it tomorrow, was written into the bill at least in part with my support, if not my insistence.

There is one other matter that I cannot let go until tomorrow and that is again taking kindly issue with my able colleague, the gentleman from Louisiana. The legislation which is before us for consideration today does not change the present law with respect to holding State elections one iota, if the State and its election machinery wants to and can be geared to hold State elections on days other than when Federal elections are held.

I cannot help but ask this question, Mr. Chairman: If the election franchise is one of the cornerstones of representative government, is it not a cornerstone when the sheriff is elected and when the mayor—who chooses the chief of police in many cities—is elected? Is it not a cornerstone when all county and State officials are elected?

We tried to narrow this legislation to Federal elections, if that be the disposition of the State, but a time will come when some of the people living today will see antidiscrimination legislation cover all State elections, when there will be no authority to the States to get away from such requirement by holding an election on another day.

Again, to be specific, I wish to read section 202 of the bill which is before us. I shall have some more to say about it tomorrow, because today, as I have said, I only intended to discuss this legislation in a general way, since the chairman has discussed it title by title.

There is a reason why my good friend from Louisiana talked about this section. I probably would have talked about it too, were I a Representative from Louisiana.

I read from section 202:

> All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin—

And this is the thrust of it—

> if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof.

Mr. GUBSER. Mr. Chairman, will the gentleman yield?

Mr. McCULLOCH. I yield for one question.

Mr. GUBSER. As the gentleman knows, I am not an attorney. I need some advice from a good legal mind.

It is my understanding—and I hope the gentleman will correct me if my understanding is not correct—that in accordance with certain decisions of the courts it has been held that whenever Congress legislates in a field it preempts that field. If that be true, would not the effect of passage of the bill be to preempt all qualifications for elections or voting for the Federal Government?

Mr. McCULLOCH. Answering the first part of the gentleman's statement, in a case involving a Pennsylvania statute several years ago the Supreme Court of the United States vacated or voided a conviction of a gentleman in Pennsylvania for violation of a State law on the ground that U.S. statute had preempted the field.

It is not the intention to preempt the field with respect to State elections by passage of this legislation.

My answer is as I gave it in reply, in part, to my able colleague from Louisiana. Generally there is no intention to preempt the field in any title of this bill, if the State proceeds to perform its bounden duty under the Constitution of the United States.

Mr. GUBSER. I thank the gentleman for that comment.

Mr. McCULLOCH. Going one step further, in the voting section we do not seek to affect the qualifications as laid down by the State, in any manner.

I accept as completely accurate the statement of the chairman in this regard.

Mr. GUBSER. I thank the gentleman for his very clear statement. I would hope, in order that the legislative history could be very clear, we could get a similar statement from the chairman of the committee, the gentleman from New York [Mr. CELLER].

Mr. McCULLOCH. In further answer to the question of my good friend the gentleman from California, there are certain titles as to which "no preemption" is particularly necessary to be spelled out in words and phrases and sentences.

Mr. Chairman, I now yield 10 minutes to the gentleman from North Carolina Mr. [WHITENER].

Mr. WHITENER. Mr. Chairman, this bill, which many refer to as a civil rights bill, I think could more appropriately be called a bill to extend Federal control over individuals regardless of race, color, religion, or national origin. It destroys more civil rights than it protects.

At the time I understood the gentleman from Ohio was yielding to me for 15 minutes rather than 10.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. I yield to the gentleman from Ohio.

Mr. McCULLOCH. I always try to be generous to my able and persuasive friends all over the United States, and if at the end of 10 minutes there are

not too many requests for time and I can do it, I certainly shall meet that tentative commitment for the additional 5 minutes.

Mr. WHITENER. I trust the gentleman will, to make up for the 5 minutes that he just took.

Mr. McCULLOCH. Not to be outdone, Mr. Chairman, I did not take 5 minutes. I took no more than 2, and I do give him an equal amount now.

The CHAIRMAN. The gentleman from North Carolina is recognized for an additional 2 minutes.

Mr. WHITENER. Thank you, Mr. Chairman. In the consideration of this legislation, as we have done in the consideration of previous so-called civil rights legislation, it has always been my purpose to avoid explosive conduct. I can very well do that, because I think in doing so that my conduct is consistent with the conduct of the people of the State which I represent.

We hear a great deal here about fair employment practices from some of these gentlemen from some of the States in the Union. Yet, I come from a State which employs more Negro schoolteachers than the States of New York, Pennsylvania, and Illinois combined. I come from a State where the average Negro schoolteacher had a higher average salary than the white schoolteachers. I come from a State where one of the large insurance companies in America is owned, operated, and employs exclusively members of the Negro race. In our State we have one of our largest banks which is owned, operated, and employs only members of the Negro race. We have in North Carolina the only major bus transportation company which is owned and operated exclusively by members of the Negro race and serves the people of all races.

I come from a city which has, and has had for at least 15 to 16 years, a member of the Negro race on the city council, elected by the people of the entire city, even though only 12 percent of our population is Negro. Some of these gentlemen want to talk about religion. On one occasion the people of my community were not too much worried about that, because at that time we had a member of the Jewish faith as our mayor and a member of the Negro race as the treasurer of our city.

Some of these folks who talk about civil rights could do a great deal more good by example and by abandonment of some of this political oratory. I have no prejudices and I would not here today urge anyone to support the position that I take because of racial or religious or national origin prejudice. I do say this: Every American, regardless of race, religion, or national origin ought to be interested in preserving this Constitution, a copy of which I hold in my hand, under which we have become the greatest Nation on the face of the earth.

I remember from reading our history that back shortly after the War Between the States a great President was pilloried and even was sought to be impeached because he had the courage to stand up for the Constitution of the United States; and by only one vote did he avoid impeachment. And yet tonight in the hills of Tennessee this man, Andrew Johnson, a native North Carolinian, who is now being recognized by historians to have been a great man rests in a grave on a hillside, at his request, with a dog-eared copy of the Constitution under his head and the American flag draped around his body.

Some of these folk who would destroy this Constitution in the name of what they call civil rights should take a look at the brief written, according to the chairman of our committee in his note of transmittal, by attorneys in the Department of Justice. I wish I had more time to discuss this with you and give to you the arguments of the Department of Justice in support of this bill, because they are the most cogent and convincing arguments against it that I have been able to find. I can give you a few examples.

As we go along in the debate it will be my purpose to give special attention to title VI. But let me tell you what the Department of Justice says about title VI.

In this brief they purport to ask questions and to answer their own questions. Some Members of Congress are somewhat expert in asking questions on questionnaires in order to get the answer that they want. The Department of Justice, I am sure, has equally capable people. In asking the questions they did not even in their wisdom, come up with answers which I think would satisfy a Member of this body. Let me give you one which appears on page 51. This is the question:

> Suppose a State or locality in administering unemployment compensation requires its officers to maintain separate waiting lines for white and Negro recipients. Would all workmen's compensation payments to the State or locality be terminated?

It seems to me that that could have been answered "Yes" or "No" without much trouble, but let us hear the answer of the Department of Justice.

> Answer. Such separate lines would clearly be inconsistent with title VI, but it is not contemplated that the Federal agency would take so drastic a step as to cut off all unemployment assistance until this form of segregation was ended.

At that point you will note "It is not contemplated." They are saying that they have the authority to do it but it is not contemplated that they would.

> Title VI is not intended to be punitive.

They say—

> To deprive all recipients of aid could result in great harm to many innocent individuals who desperately require assistance.

But yet, Mr. Chairman, they are saying in effect, these Department of Justice attorneys, that under title VI there is nothing to prevent their keeping innocent individuals who desperately require assistance from getting any assistance. I continue the answer:

> Thus, for example, the agency might provide that certain administrative costs would be disallowed if such segregation practice were followed.
>
> Or it might obtain a contractual agreement from the States not to engage in such segregation and bring suits to enforce the contract. In general, it is expected that Federal agencies would not cut off assistance where other means of enforcing nondiscrimination requirements could be found.

You see, the question and answer by the legal brains of the Justice Department clearly says all of these unfortunate results could be obtained by a bureaucracy here in Washington.

Let us read another interesting question that may apply to some of you folks in other areas of the country as well as it does to some of those south of North Carolina:

> Question: If a number of localities in a State discriminate in connection with a program receiving Federal financial aid, could all assistance to the State under the program be cut off? Would the same result follow if only one city or town in the State practiced such discrimination?

Listen to this remarkable answer of the lawyers of the Justice Department:

> It would depend on the circumstances and the way in which the Federal assistance is administered. Under section 602 assistance could be terminated or refused only to a "recipient as to whom there has been an express finding of failure to comply" with a nondiscrimination requirement adopted pursuant to that section. If under a proper program the State is the recipient, then action could be taken with respect to the State on a finding of failure by the State to comply with such requirements. If the discriminations were widespread or as required by State law or by plan approved by a State, a Federal agency might be justified in concluding that all recipients of aid in the State were discriminated against without having to make separate investigations and findings as to each locality receiving aid. In most cases, however, a separate finding and order as to each particular locality would probably be necessary. Thus, in the absence of some basis or finding that States were responsible for the discrimination, it would be expected that action would be taken only with respect to the local community or communities. For example, the city, towns, and counties actually involved.

In simple language, what does this say? It is saying if in the State of New Jersey or in the State of California or the State of Massachusetts there is one or maybe two or maybe five little communities where some alleged discriminatory conduct is being carried on or in connection with a Federal program, the Federal agency in any assistance program, according to the Justice Department, could say this indicates to the agency that discrimination in the State of New Jersey, California, or Massachusetts is so widespread that they will say to the entire State that it shall no longer participate in a program until we find or satisfy ourselves that these communities are no longer in violation.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. McCULLOCH. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. WILLIS. Mr. Chairman, I yield the gentleman from North Carolina [Mr. WHITENER] 5 additional minutes.

Mr. WHITENER. Mr. Chairman, this is not what I say about it. I point that out to you again. This is what the Justice Department, according to Chairman

CELLER of the Committee on the Judiciary, says is a proper interpretation of the language of title VI.

The same sort of thing is found in this publication in questions and answers dealing with other sections of the bill.

Let us get to another question that they ask and answer:

Question. Would assistance be cut off to a private institution which engaged in segregation where the segregation is required by the State?

Answer. The requirements of title VI apply "notwithstanding any inconsistent provision of any other law." Moreover, any State law or policy requiring segregation would clearly be unconstitutional. Hence, no such law or policy would excuse a failure to comply with nondiscrimination requirements imposed pursuant to section 602. Whether aid would be cut off or the nondiscrimination would be enforced in some other way would depend on the circumstances.

Now, what are these circumstances we hear about? The circumstance would be, who happens to be heading up a particular agency at the time the decision is made and whether it is a person with a judicial mind or a person such as some that we know in Government who do not seem to have the capacity to approach things judicially. If we had all people of judicial type, I am sure we would not have to worry too much about a lot of the legislation we have at this time.

Let me get to another rather remarkable answer to a question propounded to themselves by the Department of Justice:

Question. Would Federal milk or school lunch programs be terminated because a school was segregated?

I imagine there are some dairy folks out in the dairy country interested in that. They have had it pretty good in the milk programs; and those of us who have children in school sort of like the school lunch programs. Let us see what they have to say about that. This is the answer of the Justice Department:

It is not expected that such programs would be terminated so long as the milk and food were made equally available to white and Negro children alike. Such termination would seem to be inappropriate in view of the fact that other means of ending segregation were available which did not involve denying needed food to growing children. It would be more appropriate or more consistent with the objectives of the milk and school lunch programs, for example, to rely on suits by parents or by the Attorney General under title VI of H.R. 7152 as a method of bringing an end to segregation.

Is not that a remarkable answer? They say in effect there would be nothing to prevent a termination of the school lunch and milk programs if the head of the agency wanted to do so in a school where there was not as much mixing of the races or, we might just as well say, other discriminatory practices, because this title does not say "segregation," it says "discrimination." These statements made by the Department of Justice are to the effect it could be done. But when I read this answer, I was quite amazed that here again we see in the minds of the people who wrote this document the idea that the only way to approach this problem, and we all know it is a problem, is by the ugly hand of force. They say, it would be appropriate to rely, first, on suits by parents or, second, by the Attorney General.

Did it never occur to these brilliant scholars that it may be better to sit down with parents and with school administrators or with a community relations organization within a community and say, as did the prophet Isaiah, "Come, let us reason together," and try to work this problem out by amicable means?

Apparently, the answer to all of these problems and getting this business across on the part of some of these people is to go to the courthouse and bring the people in for a judicial proceeding.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. WHITENER. If the gentleman will get me more time, I will be glad to yield to the gentleman.

Mr. RODINO. I will give the gentleman 1 extra minute.

Mr. WHITENER. I yield to the gentleman, but please do not take more than 1 minute.

The CHAIRMAN. The Chair has to inform the gentleman from North Carolina that the gentleman from New Jersey does not have control of the time.

Mr. WHITENER. Then, Mr. Chairman, I must respectfully decline to yield to the gentleman.

Mr. Chairman, and my colleagues, these examples that I have given to you of questions and answers under title VI are merely typical of questions and answers under other sections.

Mr. ROGERS of Colorado. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. ROGERS of Colorado. Mr. Chairman, the gentleman from New Jersey is now in charge of the time in the absence of the chairman, the gentleman from New York [Mr. CELLER].

The CHAIRMAN. The Chair was not informed that the gentleman from New York is absent nor is the Chair informed that the gentleman from New Jersey is now in charge of the time.

The gentleman from North Carolina is recognized.

Mr. WHITENER. I thank the chairman.

Let me say this in the little bit of time I have left. I think all of us are men of good will. I think most of us see the defects in this legislation. We can take each title of the bill and anyone who has ever made the slightest study of constitutional law will recognize the problems in it. I would not undertake in the little time I have to discuss the entire bill, but let me point out one thing that I do not believe has been mentioned. I refer to title VIII directing the Secretary of Commerce to take a survey and compile registration and voting statistics by race, color, and national origin.

I will not take the time to read what the Department of Justice says about that, but it is interesting, I would say to my colleagues, if you have a chance to look at it. But let me say this to you. This is one of those sections or titles that is unworthy of the support of any of us. Because here you have not the Secretary of Commerce who is in charge of the Bureau of Census and empowered to collect these data and make these studies as he or his Census Bureau might think they would be of value to the country. Instead he is limited in his research and his census to the States and those sections of the country as designated by the Civil Rights Commission, and he cannot look further than they request him to do.

I hope as we go along under the 5-minute rule we will have more time to go into some of these rather unfortunate provisions of this proposal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RODINO. Mr. Chairman, I yield myself 10 minutes, and I wish to state I am acting for the chairman of the Committee on the Judiciary who asked me to take charge of the time for him in his absence.

The CHAIRMAN. The gentleman from New Jersey is recognized.

Mr. RODINO. Mr. Chairman, before making a general statement on the need for this bill, I should like to refer to some of the statements made by some of the previous speakers—only very briefly, however—to clarify some of the points which were raised.

With reference to the statement made by the gentleman who preceded me on the question of title VI, I should like to point out to the gentleman that the answers which the gentleman read, which are purported to have been prepared by the Justice Department, are indeed not only reasonable answers to the questions which were raised but also expressly justify the action which would be taken in each particular case under title VI.

Title VI is designed not to cut off Federal financial assistance in any program, but is designed to prevent discrimination. It is true, as the gentleman from Louisiana remarked earlier, that there is a mandatory requirement on the particular agency to set up rules and regulations and requirements to effectuate the provision in section 601, which is intended to end discrimination; but, nonetheless, every opportunity is to be given under that section for the recipient of that assistance to comply. When he complies and there is no longer any discrimination, then there will be no need to cut off financial assistance.

I wish to also point out the fact that the question was raised as to title VII. How did title VII come into the bill? Title VII which deals with Federal employment practices, was a subject which was treated before our committee at great length. Many of the bills introduced and many of the bills spoken on before the Judiciary Committee covered the need to remove, to eradicate, or to eliminate discrimination in employment. As a matter of fact, the original administration bill related itself to the question of an Equal Employment Opportunity Commission, the President's Commission on Equal Employment Opportunity. So it comes with no surprise that title VII is in the bill.

Mr. Chairman, this is a historic week for the House of Representatives and for the Nation. The 88th Congress has had and will have no more important legislation before it than the civil rights bill which we are debating today.

Perhaps, Mr. Chairman, it might also be said that we shall debate no bill more controversial than this. From the time President Kennedy's message on civil rights was first transmitted to the Congress, in June of last year, it has been surrounded by an increasing tempo of debate, emotion, and, I fear, misunderstandings and misstatements of fact.

It is unfortunate that this should be so, for if any bill deserves a dispassionate weighing of needs and facts, this is it. This bill deals with the fundamental American dream that all men are created equal, and that equal opportunity for a better life should be within the reach of all. This bill deals with human beings, with their rights, their well-being, and their dignity.

The debate today has been without rancor and without bitterness.

I hope that, for the duration of this debate, the House will adopt the admonition of Isaiah:

> Come now, and let us reason together.

Mr. Chairman, this bill is founded upon those same principles which have formed the cornerstone of our democratic government from the very beginning. Even before our Constitution was adopted, the leaders of the American Revolution created a ringing statement of belief, a declaration of conscience which told the world how Americans felt about people and their governments.

As we debate this bill, I hope all of us will keep in mind these stirring words from the Declaration of Independence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

It is up to us, 188 years later, to assure to all Americans these unalienable rights.

It is tragic that this should be so, for what we seek to do today should have been done long ago.

For too long Negroes in America have been denied that most fundamental democratic right, the right to vote.

For too long Negroes in America have been shamed by being turned away from a restaurant, a theater, or a hotel simply because of the color of their skin.

For too long Negroes in America have been deprived of equal access to schools and other public facilities, for which they help to pay with their own tax dollars.

For too long Negroes in America have been segregated in the hospitals and schools and other programs paid for in part with Federal funds.

And for too long Negroes in America have been denied the equal opportunity to jobs.

There are too many items on this list, Mr. Chairman. These wrongs cry out for redress.

I am proud to say that it is not only Negroes themselves who are today demanding redress of grievances. Religious and labor groups have been most active in focusing public attention on the problems of civil rights.

National bodies of Catholics, Protestants, and Jews have all taken strong stands in support of civil rights action by the Congress. A large number of priests, ministers, and rabbis in my own congressional district have communicated to me their keen interest in the passage of H.R. 7152. And it appears to me that the laity is in very substantial accord with the bill, for I have received a large number of comments not only in support of the bill, but in support of prompt passage of the bill.

Among the most enthusiastic supporters of civil rights legislation generally, and of H.R. 7152 in particular, is the labor movement. The AFL-CIO and many of its affiliated unions have urged the Congress to pass H.R. 7152, and I have received letters from a number of union members urging passage. Labor is especially interested in the adoption of the fair employment practices section of the bill.

Mr. Chairman, there are those who say that this bill is dangerous to the country, that it will destroy our social fabric and somehow shake the very foundations of our Government.

I may say that our experience in New Jersey is to the contrary. In my State, we have strong statutes assuring fair employment practices, guaranteeing equal access to public accommodations, prohibiting segregation in both public and private schools, and providing against discrimination in private housing.

Our first antidiscrimination law was adopted in 1945, and other laws have continually strengthened the State's antidiscrimination policy in subsequent years.

In all the time these laws have been in effect they have not destroyed the fundamental virtues of the people and government of the State of New Jersey, they have enhanced them. I believe we are stronger economically, politically, and socially in New Jersey than we were before these laws were passed.

The passage and enforcement of these laws have lifted from our consciences a part of the terrible burden which discrimination imposes on both Negro and white, and left us with greater freedom of both mind and spirit; greater freedom to march forward on the road to brotherhood and greater freedom to overcome all the other obstacles to a better life.

As it has been in New Jersey and in the other States which have recognized their responsibilities in the field of race relations and have moved to accept them, so it will be in the Nation as a whole when the Congress follows their example.

Let no man here today forget that this civil rights bill is not just for Negroes; it is for all of us.

Mr. Chairman, the Nation has made some progress in guaranteeing civil rights in recent years. Compared with the progress made in the 80 years following the Civil War, the progress achieved in the last 20 years has been substantial, perhaps even dramatic.

This progress, however, has not been at the hands of the legislative branch of the Government.

Through individual action, much progress has been made in desegregating public facilities and public accommodations. Some of this progress has been made by voluntary action of businessmen and public officials. Some of it has been made by private individuals through appeals to their fellow citizens through public demonstrations. Much of it has been made by quiet efforts at mediation and conciliation.

Through action of the executive branch of the Federal Government, segregation in the Armed Forces has been largely eliminated. Discrimination in employment by Government contractors, a group which includes most of the country's largest employers, is being steadily diminished. The Federal Government itself, the Nation's largest employer, has by order of the President increased its efforts to assure nondiscrimination in Federal employment. And an Executive order of the President has begun the long process of eliminating segregation in publicly assisted housing.

Through action of the Supreme Court, the segregation of public schools and other public facilities has been held unconstitutional, and the courts have begun to deprive the States of their use of police power to enforce segregation in privately owned public accommodations.

Through the Congress of the United States, no substantial progress has been made at all.

Up to this moment the Congress of the United States has yet to recognize in any official act the historic decision of the Supreme Court of the United States which rendered public school segregation unconstitutional.

It has failed to prevent the use of Federal funds to finance segregated schools.

It has failed to prevent the use of Federal funds to build segregated hospitals.

It has failed to provide an effective means for guaranteeing the right to vote.

It has failed to act against discrimination in employment, and in privately owned restaurants, hotels, theaters, and other public accommodations.

Let us end this record of failure with a record of achievement. Let us pass this civil rights bill.

The bill itself merits passage. It is not too moderate, as some have said. It is not extreme, as others have charged. It is a strong bill, designed to meet specific problems and meet them effectively.

The bill is a product of lengthy public hearings and exhaustive discussion and analysis in executive session. Those who say that there are provisions in this bill which were not considered in committee are wrong, because the hearings on civil rights conducted by the subcommittee covered everything in this bill, and far more.

I shall vote for this bill proudly. Although no bill can cure all the ills which our Nation tolerates, although this bill could be drafted to cure more ills than it does, yet this bill will achieve more to advance the cause of civil rights than all the governmental actions of the last 100 years put together.

H.R. 7152 will dramatically improve the opportunities of Negroes to vote. It will hasten the desegregation of public schools and public facilities, a process which has been intolerably delayed. In many areas of the Nation, it will give Negroes confidence to sit at a lunch

counter—how modest an advance that is—or take an overnight drive or buy a ticket at a motion picture theater without fear. It will reassure them that the country which they love, the country which they fought for, and for which their fathers and husbands and sons died, the country which they serve as responsible citizens, that that country will honor its promise of respect and brotherhood.

Mr. Chairman, passage of this bill will be a monument to the Nation. It will show the world that we are what we say we are, a democratic society, based on the principle of equality for all men.

It will also be a monument to the great men of this and past generations whose ideas have pointed the way for us. To Thomas Jefferson, whose words in the Declaration of Independence I have already quoted. To Abraham Lincoln, the author of the Emancipation Proclamation. To President Kennedy, who first presented this bill to the Congress, and to President Johnson, who so strongly urges its passage.

For them, but mostly, for our fellow citizens of the United States who need it so badly, let us pass this bill.

Mr. BECKER. Mr. Chairman, will the gentleman yield for a question, please?

Mr. RODINO. I yield to the gentleman from New York.

Mr. BECKER. I think the gentleman is making a very fine speech, but what is bothering me is, if we are going to listen to 5 hours of speeches this afternoon, I wonder about this, because the gentleman said that we should debate this bill. I am wondering when we are going to get an opportunity to do some work on this bill. If we are going to have 10 hours of speeches on this thing, which is the way it looks now, I do not think we will ever get a chance to debate the bill. I wonder if the gentleman agrees with me that we should get a chance to debate this bill section by section, and under the 5-minute rule we will have not enough time.

Mr. RODINO. I am sure the gentleman will have substantial opportunity. There are many sections to this bill, and I understand both sides have agreed that no Member will be precluded from talking on this bill.

Mr. BECKER. As for talking on it, I will agree with the gentleman, but I do not know that that is going to serve any purpose. We would like to talk about what is in each section of the bill so we can get an understanding of it.

Mr. RODINO. I believe the gentleman will have that opportunity when we come to the 5-minute rule and debate each section of the bill.

Mr. BECKER. I disagree.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. CELLER. Mr. Chairman, I yield such time as he may desire to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT of Florida. Mr. Chairman, the bill now before us is unconstitutional for a substantial number of reasons and should therefore be defeated. There are things in race relationships which undoubtedly need remedying, but tyrannical and undemocratic procedures of unconstitutional legislation cannot be excused.

We must not yield to the pressure of mobs, threats, physical obstructions, disregard of public laws and private rights, and bow to the political expediences of the times to flaunt the Constitution. To do so would be a dangerous precedent and an unnecessary weakening of the stability of our Government, not only now, but in the future.

I have drafted a constitutional amendment, House Joint Resolution 728, known as the freedom of association amendment now pending before the House Judiciary Committee, in an effort to properly submit the issues to the country. I asked the Rules Committee to make it possible for this to be offered as a substitute amendment to the bill before us now, but they rejected this request and the House Parliamentarian has advised me it would therefore be out of order to offer this in the present debate.

In an effort to take a positive and helpful approach to the problems of housing, motels, hotels, restaurants, and so forth, for Negroes, I have introduced H.R. 8881, the Voluntary Accommodations Act now pending before the House Banking and Currency Committee. I have asked the appropriate committees to request departmental reports and I have also asked for early hearings to be heard on this legislation, which I hope can be accomplished.

In addition to the constitutional objections that I have to this bill before us now, I have many objections to specific provisions as creating in the executive branch, tyrannical powers both unjustified and improper.

I sincerely hope this bill be defeated.

Mr. CELLER. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. JOELSON].

Mr. JOELSON. Mr. Chairman, this week may possibly be regarded someday as a high moment in America's history. Our decision will determine whether or not we are willing to give meaning to the magical phrase about "liberty and justice for all." I shall certainly support the pending bill with hope, conviction, and enthusiasm.

Concerning the public accommodations section of the bill, we had heard much talk that it interferes with property rights. However, the history of America shows that when property rights and human rights collide, the human rights must be considered paramount. In the 1860's the cry was heard that the abolition of slavery would deprive the slaveholders of property rights, and in the ensuing century the similar argument was made against progressive legislation for the general welfare.

It is a simple fact that every person must use his property in such a way that such use will not defeat the public interest. Zoning laws forbid one to build a glue factory in a residential neighborhood, and fire laws require a tenement owner to construct fire escapes. In other words, it is apparent that one cannot use his property in disregard of the public good.

All the provisions of the bill are fair and reasonable. There is no defensible reason why Federal moneys can be used to promote segregated facilities. Nor is there any right to deny voting privileges to persons because of their race. Since all persons must pay taxes and fight their nation's wars, they must necessarily have the right to share in their nation's decisions. If taxation without representation was tyranny in 1776, it is no less tyranny in 1964.

The equal employment features of the bill will serve to give minority groups the economic advantages without which the other advantages will be meaningless.

I hope and pray that I can tell my grandchildren that I was a Member of the Congress which at long last breathed meaning into the phrase "liberty and justice for all."

Mr. McCULLOCH. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. LINDSAY].

Mr. LINDSAY. Mr. Chairman, the opposition to this bill seems to be based largely on the premise that there is a right to interfere with the constitutional rights of others. There is no such right as the right to deny others the full benefits and privileges of the Constitution. This legislation, Mr. Chairman, does not, as has been suggested heretofore both on and off the floor, force acceptance of people in schools, jobs, housing, or public accommodations because they are Negro. It does not impose quotas or any special privileges of seniority or acceptance. There is nothing whatever in this bill about racial balance as appears so frequently in the minority report of the committee.

What the bill does do is to prohibit discrimination because of race or religion.

This is a civil bill. It is not a criminal bill. The methods and procedures used in this bill throughout are time-honored methods and procedures, and the Congress has historically taken action whenever in this country the forces denying our citizens' rights are more powerful than the individuals whose rights are abridged.

This is especially true when the abridgment is supported by the act of a State government, for when is the constitutional right of an individual so much in jeopardy as when it is imposed and denied by his own State or municipal government?

Everything in this proposed legislation has to do with providing a body of law which will surround and protect the individual from some power complex. This bill is designed for the protection of individuals. When an individual is wronged he can invoke the protection to himself, but if he is unable to do so because of economic distress or because of fear then the Federal Government is authorized to invoke that individual protection for that individual, and not on behalf of anyone else.

The injunctive processes that are provided in this bill have been provided in all kinds of laws in our history: in labor relations, in trade regulation, and antitrust. These are processes which are time-honored, and which, I must stress as hard as I can, are surrounded by all of

the safeguards that can possibly be given in terms of hearing, due process and, most important of all, review in the courts.

Just briefly I wish to touch upon title II, the public accommodations section, although my colleague on the Judiciary Committee, the gentleman from Minnesota [Mr. MACGREGOR], will speak about it at greater length later. The reason I want to talk about it is that the section and its commerce clause basis has been attacked so hard by our distinguished and able friend, the gentleman from Louisiana [Mr. WILLIS]. We all know this provision deals with a situation which is intolerable. I think even those who are in opposition to the bill here have agreed and will agree that practices by which Negroes are deprived of an opportunity to eat at a roadside stand or to have access to a hotel or a motel when they are traveling are not good. The question is, How is it to be remedied?

The Congress under the Constitution has the power to regulate commerce among the several States, and any time there is a problem which inhibits this commerce the Congress has the duty to act. We know, too, that any time there is State involvement in an area of discrimination of this kind the 14th amendment becomes applicable and the Federal Government, through the 14th amendment, not only has a right but a duty to do something about it. That is why title II is based in part upon the 14th amendment to the Constitution.

State involvement is difficult to define, we know that. I think in due course the courts will resolve it with greater clarity than they have in the past. There are various shades and degrees of what constitutes State involvement. Nevertheless, if the State is involved even by deliberately turning its back on a situation, the 14th amendment applies.

The commerce clause is just as effective, and even more ancient in its application. Here we are talking about the restriction of movement, whether it be the movement of a Negro who wishes to travel from Washington to New Orleans and cannot find a place to eat or to sleep or to gas up his car, or whether it be the movement in commerce and trade that is involved in commercial dealings with places of public accommodation.

The detrimental effect of racial segregation on commerce is illustrated by the report in the committee hearings of five students arrested when requesting service at a restaurant in a particular State. These students were charged by a locality, whose spokesmen oppose this legislation, with "unlawful conspiracy to commit acts injurious to trade or commerce."

Another report told of 53 students arrested for picketing to gain admission to a segregated movie theater. One of the charges lodged against this group of young Negroes by the local authority, whose spokesman opposes the application of the commerce clause, was as follows: "interfering with commerce and trade." It is ironic indeed that potential customers are refused service or admission to a place which seeks business income, yet at the same time are charged with injuring commerce.

Other reports in the hearings tell of citizens unable to attend conventions because of segregated hotel facilities, or hotels confirming reservations and accepting payments only to dishonor their commitment when the customer turns out to be a Negro.

The testimony reveals Negro truckdrivers excluded from operations involving overnight trips because of the difficulty of finding overnight accommodations. What could be more related to commerce between the States than the commerce involved in driving a truck?

My friends, this is not all. There are instances where the coercive arm of the State has been applied to encourage or to support policies of commercial segregation. In spite of the mandate of the Congress, local officials have continued to hinder or even to arrest Negroes for not obeying "White only" signs in interstate bus terminals and related dining facilities.

They have intimidated, coerced, and arrested those engaged in peaceful picketing to obtain equal rights and although the Court has spoken, State and local police continue to make illegal arrests.

Businessmen take refuge behind local ordinances purportedly continuing a policy of segregation. When forced to choose between local ordinances backed by the local police and a decision of the Supreme Court, local businessmen have felt constrained to defer to the asserted local right.

Therefore, it becomes necessary to enact legislation of this type so that no one can claim there is a reason for operating segregated activities that hold themselves out to the public for public accommodation on the grounds that they were forced to comply with State law, municipal ordinances, or practices.

We have heard and we will hear a good deal more talk from opponents of the bill about a businessman's right to select his own customers. These opponents for the most part are the same gentlemen whose States, until the Congress acted, have dictated to the businessman that he cannot serve citizens of a certain race. Compare this civil rights bill which merely forbids discrimination between customers on racial or religious grounds with those laws, some of which purportedly still stand, which categorically deny the businessman the right to serve a portion of the public even though he may choose to do so.

The picture of those opposing this legislation masquerading as protectors of the proprietor's right while at the same time supporting laws or practices designed to drastically curtail the same rights is strangely contradictory.

Finally, while I am on the subject of the right to select customers, let me dispose of the argument very briefly that this title takes away some property right, or some other kind of right, however you may wish to describe it, that the proprietor may have by forcing him to take or to accept in his business establishment undesirable customers.

The bill does no such thing. It does not force or require anyone to accept an undesirable person, a person who is disorderly, inappropriately dressed, rude, or drunk. It does prohibit race or religion from serving as a blanket basis of undesirabilty in establishment in interstate commerce.

Another untenable argument, is that this legislation should be rejected because it discriminates within a given class of establishments. This argument, I would suppose, means that a shoeshine parlor in an interstate bus terminal would be covered, but a neighborhood shoeshine parlor would not be covered; and, say the opponents to the legislation, this in itself is discriminatory because the statute picks out certain establishments to be covered.

However, the power to make reasonable regulatory distinctions within a class has long been recognized and upheld. For example, aircraft of different weight classes and different numbers of engineers may find themselves subject to different safety regulations or passenger limitations. Minimum wage laws are not applied in all vocations. Some workers are not covered. The test is whether the classification is reasonable. It seems to me that the distinctions drawn in this bill are clearly reasonable and consistent with the legitimate purposes of this bill.

In fact, I suppose that this title is vulnerable in that it is not comprehensive enough in this regard.

What is unreasonable is a classification and corresponding denial of use of facilities on grounds of race. This runs counter to our national heritage and purpose from as far back as the Declaration of Independence, which stated:

> We hold these truths to be self-evident, that all men are created equal.

Also, the relationship between racial discrimination and a restricted, inhibited national commerce has been made clear. Therefore, it is entirely reasonable and proper to enact legislation directed at remedying the deterrent feature of racial segregation on commerce.

So far as I personally am concerned, I would like to see an end to racial or religious discrimination in all businesses, be they interstate or intrastate in nature. But in legislation drawn in part under the commerce clause, we must first address ourselves to an area of business activity plainly within its purview.

Finally, I wish to say one more thing on this title, before moving on to one other: Much of our civil law today has its basis in the English common law. In the Revolutionary War period, when newly independent States were forming their governments and adopting legal systems, many States, including our Southern States, incorporated the English common law as the basis and foundation of their own legal system. Under the English common law it was the duty of the innkeeper and those in the public accommodations field to take in all travelers on a nondiscriminatory basis so long as payment was tendered and accommodations were available. By choosing a business endeavor in the field of

public accommodations one has reason to know by law, and very ancient law, that he is relinquishing the right to make racial or religious discriminations between customers.

This has been historically true. Members may be interested in listening to the language of the Chief Justice of an English court, written in 1701, Chief Justice Holt. This is what the English court wrote; this is the law in England today. Insofar as I know it is the common law in the United States today. Any good hotel lawyer will tell you this.

I read what the court wrote in 1701:

Whenever any subject takes upon himself a public trust for the benefit of the rest of his fellow subjects, he is eo ipso bound to serve the subject in all things that are within the reach and comprehension of such an office, under the pain of action against him. If on the road a shoe fall off my horse and I come to a smith to have one put on, and the smith refuse to do it, an action will lie against him because he has made profession of a trade which is for the public good and has thereby exposed and vested an interest of himself in all of the King's subjects that will employ him in the which of his trade.

I ask Members to note that it says:

all of the king's subjects that will employ him in the which of his trade.

I continue the quotation:

If an innkeeper refuses to entertain a guest, when his house is not full, an action will lie against him; and so against a carrier if his horses not be loaded, and he refuses to take a packet proper to be sent by a carrier.

That was the common law. That is the common law as stated in 1701, and that law is good and sound today.

Perhaps on a slightly lighter note Members may be interested in that very wonderful and pertinent statement made by St. Benedict in his words in the sixth century:

If any pilgrim monk come from distant parts, if with wish as a guest to dwell in the monastery, and will be content with the customs which he finds in the place, and does not perchance by his lavishness disturb the monastery—

Parenthetically, he must be well behaved—

but is simply content with what he finds: he shall be received for as long a time as he desires. If indeed he finds fault with anything, or exposes it, reasonably and with the humility of charity, the abbot shall discuss it prudently, less perchance God had sent him for this very thing. But if he be found gossipy and contumacious in the time of his sojourn as a guest—

Parenthetically, maybe he is drunk—

not only ought he not be joined to the body of the monastery, but also it shall be said to him honestly, that he must depart. If he does not go let two stout monks, in the name of God, explain the matter to him.

Mr. McCULLOCH. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. LINDSAY. I thank the distinguished gentleman from Ohio.

Now, just a word, Mr. Chairman, on title VI and title VII, if I may. I shall not dwell long on it, because I expect to dwell further on it tomorrow if I have the time, or under the 5-minute rule if I do not.

Title VI involves Federal aid. The title establishes an orderly and fair procedure, with full court review, for cutting off Federal funds where those funds are used in a discriminatory manner. I have great respect and admiration for my friend from North Carolina who spoke on this subject a moment ago, and I think there is much in what he says. I think that the Department of Justice, in some of the material that it has supplied to Members on the intricacies of this bill, to some extent has been jumping through hoops in order to describe areas where the title of the section is not applicable. The fact of the matter is—and we all know full well—that the title is designed primarily to hit those programs where Federal funds are made available to localities for the benefit of individuals, and the funds are used discriminatorily.

Let us take a case involving unemployment compensation, and there is segregation in its administration, a Negro line and a white line for example. There is some mysterious language in the explanatory material referred to by the gentleman from North Carolina saying that it would not be necessary to cut off funds. I do not understand that. It seems to me the remedy there is to have one line, white and black. If you insist on having segregation in your procedures and your methods, I think the Government does have the power to deny funds. Very simple. Stop the discrimination, get the money; continue the discrimination, do not get the money.

I will agree, and I think it is absolutely plain as I read this statute, that in those areas where the individuals being discriminated against are not the beneficiaries, it is quite a different situation. However, in any case where there are human beings who are directly involved as recipients of Federal funds or foodstuffs of value, even though a State agency is in between, there title VI gives the Federal Government, quite properly, the power to cut off funds if race or religion is used as a reason for discriminating.

This, I say especially for my friends on the minority side of the aisle, is precisely what we have been asked for year after year and we have allocated huge sums of taxpayers' money to communities and localities who are more than happy to receive them.

If they do not wish to receive them, they do not have to receive them.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. LINDSAY. I yield to the gentleman.

Mr. RODINO. I merely want to point out that there is no need to get into any colloquy or into any extended explanation on this, but in the Justice Department's answer I think they were justified in talking about the fact that where there may have been a white and a black line, nonetheless the question is, "Were those people getting the funds under workmen's compensation?" And the question in this section is, "Do you effectuate the provision of section 601 and end discrimination?" Therefore I think that we should not be critical of the Justice Department's explanation.

Mr. LINDSAY. I thank the gentleman. I assure you I am not being critical at all. This is not an easy subject. The Justice Department has done its very best to be of assistance to Members on this question. All I say is that the law is quite clear. I hope Members will take the time to just look at it closely; it is only a page and a half and they will find it at page 62 of the bill, in section 601. It says:

Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin—

Here are the key words—

be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This ties it into a specific program. You are talking about one program and not a lot of programs. Each case is decided on its own merits, and each program is on its own. In the case that the gentleman from New Jersey and I were talking about there probably would not be a general cutoff, but there could be.

Mr. Chairman, I hope to speak more on title VII tomorrow, the FEPC section, which is key.

In closing I merely want to say this. This is not an easy bill. We are asked to do a lot. Those of us on the Judiciary Committee supporting the bill are asking our colleagues to go with us and to enact this bill on the floor of the House of Representatives as nearly intact as possible. It will not be easy. But I want to say this right now, and I speak for a great many on my side of the aisle who have long been fighters in the cause of civil rights; we do not expect to go up the mountain on this one and send the bill to the other body and then have any title or any major part of it traded away. We serve notice right here and now that should that occur we will not accept the compromise in conference. We think we are doing a service to the country, but it is a difficult one. We are carrying a load on our back. A lot of us are away out on the gangplank and we are asking you to come out with us. And when the time comes that the bill is wrapped up and sent to the President for signature we want to see to it, and will insist upon it, that that bill is the bill that contains all its parts.

Mr. McCULLOCH. Mr. Chairman, I am pleased to yield 15 minutes to the gentleman from Georgia [Mr. FORRESTER].

Mr. WILLIAMS. Mr. Chairman, I make the point of order a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] Ninety Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 21]

Abbitt	Davis, Tenn.	Glenn
Ashley	Dent	Harding
Auchincloss	Edmondson	Harsha
Baring	Evins	Hays
Bonner	Findley	Hoffman
Brademas	Ford	Holifield
Broyhill, N.C.	Frelinghuysen	Johnson, Calif.
Cameron	Fulton, Tenn.	Jones, Ala.

Kee	Moore	Sheppard
Kilburn	Morton	Snyder
King, N.Y.	Moss	Staebler
Laird	O'Brien, Ill.	Steed
Lankford	Osmers	Thompson, Tex.
Lipscomb	Passman	Tollefson
McClory	Pepper	Tupper
McDowell	Pool	Ullman
McIntire	Purcell	Utt
Martin, Mass.	Rhodes, Ariz.	Van Deerlin
Martin, Nebr.	Roberts, Tex.	Vanik
May	Roush	White
Miller, N.Y.	St. George	Wilson, Bob
Montoya	Secrest	Wright

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 7152, and finding itself without a quorum, he had directed the roll to be called, when 363 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. FORRESTER].

Mr. FORRESTER. Mr. Chairman, I am highly grateful for that great prophet, Isaiah. I always admired him, but my admiration for him was magnified 100-fold when my good friend, the gentleman from New Jersey [Mr. RODINO], remembered that he said, "Come and let us reason together."

It has been a long time coming, but of course, an ordinary Congressman like me could not be expected to have any time on this bill when it was passed out of our committee, with 1 minute assigned to my wonderful friend, the gentleman from New York, and another minute to my distinguished friend, the gentleman from Ohio. There being only 2 minutes of debate, of course, I had no right on earth to expect any time. But I appreciate the privilege that I have and I am going to try my dead level best to talk to you for awhile. And I am full of it now because I have been charged with it for a year.

I want to talk to you a little while about the most far-reaching legislation that has ever been brought before any Congress of the United States during its entire history.

I am a southerner, and extremely proud of it, and an American. I will never cease to be grateful for that splendid privilege. If I have ever had any feeling against any of you, I will say to you it has long since been dissipated.

I am somewhat like the story they tell down my way. In one of our Army maneuvers planes flew over some of the swamps down in Georgia, and they dropped a bomb. In a little while they saw an old man running out of the woods, whiskers down to his stomach. He was swinging a musket. He ran up to the MP and said:

> Have you seen General Lee?

This man said:

> What do you want with General Lee?
>
> I am just going to tell him, between he and myself, if those darn Yankees shoot one more of those guns I am going to talk about surrendering.

I have something else I want to tell you. I read something in the Washington News last night. I hope you read it. If you did not I want you to read it. I want you to read one of the finest lessons in patriotism I have ever had the privilege to read. I am glad that he is a citizen of my native State of Georgia. He is a man by the name of Sergeant King. The sergeant has not been home for a long time. It said he has five Purple Hearts that he got because of wounds that were inflicted on him in defense of his country, and his Government's service. Some of the people were congratulating him and telling him that he had done so many wonderful and fine things. Here is what he said:

> Well, now, my friends, it is not as bad as you might think. I think I have scored some points for my country, the United States of America.

He said:

> If I did, I am awfully glad, because old Uncle Sam deserves it so richly.

Do you get what I am saying?

When we deliberate on legislation of this kind we need to be like Sergeant King, because Uncle Sam deserves so much at our hands.

You know, I have long since lost quite a bit of my patience with some of these boys privileged to be Americans but always talking about "my rights" and never talking about responsibilities. I am sick and tired of it. In these days you better get to talking about them too, because it is serious times and if we intend to serve our country we will never find a better time to do so than now.

I am going to talk about America, I am going to talk without rancor. As a matter of fact, I could not have any rancor if I wanted to. I have a tremendous regard for my chairman. I just think he is one of the finest men I ever knew. I follow him most of the time, but I do not go along with him in this, and the reason why I did not is because he does not know anything about it.

Let me illustrate what I am trying to say to you. A few years ago I got a letter from the Governor of his State telling me that Chairman CELLER had filed before our committee a bill, and he says "You must fight him now, because it infringes upon the rights of the State."

Do you know what I wrote back to him? I said:

> DEAR GOVERNOR: You nor my distinguished chairman would not know State rights if you met them in the middle of a big road. Consequently, you have not got a Chinaman's chance to take me away from the support of my chairman. I am with him.

The gentleman from New York [Mr. CELLER] said he wanted to see our States made a showcase like Washington. He did not mean that, no. Why, back home a woman can walk the streets with impunity. Up here, 200 yards from where I sleep, a rape was committed just a few nights ago. Not too long ago 300 yards from where I sleep a woman was stabbed nine times while she was worshiping her God in a Catholic church. You do not want to make my State a show case of democracy if it is to be like it is here do you? I do not think we need any more showcases like Washington.

Another thing, I hear these boys keep saying, "Oh, how we did study this bill and how we did consider this bill." Well, if you did, you did not let me in on it. No, I did not have anything to do with it. I do not think anybody studied this bill. The reason why I do not think you did is I just know that you good lawyers would not do some of the things you did if you did study it. You just start getting upset when you start talking about civil rights.

You take my good chairman. He said that he wrote a provision in this bill that the Attorney General could call for a three-judge court in these cases because some of the southern judges are dragging their feet. Well, you know you lawyers should not talk that much, or advocate speed. There is a whole lot more danger in haste than there is in a little procrastination. Did you know that?

I was prosecuting attorney for 27 years. I never let anybody inveigle me into calling a special term of court to try an outrageous criminal case. I had sense enough to know what they wanted me to do. They wanted a judicial lynching. Not only do you have to have this undue haste, and I know you do not mean it, but what you are doing is, you are setting up a legislative lynching, that is all. I want to be plain with you.

I love the law almost like a mother. It was the only profession on earth that an eighth-grader like me could enter, the only one, and I treasure it, and I respect it with all my soul. But I am just telling you now, and I am telling you for the work's sake, I am sorry that the Justice Department, the Attorney General, would even permit a request of that kind to be made to the Congress of the United States.

You know, I am going to tell you something, and I am not talking about any particular Attorney General, I am talking about several. I am condemning a system. I just do not like the way we set up our courts, anyway. I do not mind telling you it is a bad system when an Attorney General can invite a man to come down here and say, "I am looking you over for a judge. Tell me now how you are going to rule on such and such a case." I do not like the idea of the Attorney General setting up his own court. You are going entirely too far. It is about like saying, "I do not like this judge who is to try this case, he won't barbecue the defendant before sundown." I do not like it.

Another thing, no matter what you say you cannot get mad with "TIC" FORRESTER, because you know "TIC" FORRESTER is telling the truth.

I just do not like it and you do not, either. I am excusing you because it has to do with civil rights. You would not do it any other time—and I know it.

Now talk about haste. Now you know haste is kind of like truth. You know someone said, "What is truth?" Well, now, Brother BECKER, the gentleman from New York sitting there, about every time I see him asks me, "When is your Judiciary Committee going to get my prayer bill out?" I do not believe I heard anything about haste on that,

did you? When I see some of the things we do I am of the opinion we stand in need of prayer.

Now another thing—you cannot afford to have all your Federal judges trying civil rights cases. Somebody has got to keep the store. Who is going to try these murder cases that you have now and then? These counterfeiters, these bribery and sedition cases?

You have a bill pending over there before the subcommittee and I am chairman of that subcommittee to make it a Federal offense to kill a President. Now just do not keep these judges trying civil rights all the time. Let us let them have a try at a few other cases, too, otherwise there is no reason to consider such a bill.

Then another thing that I heard, and I know the gentleman did not mean this. He said:

> Let those who practice discrimination be denied any portion of the funds that the Federal Government gives to its citizens.

I know he could not have meant that. There are a lot of things he could not mean. You know, I sympathize with what my good friend, the gentleman from New York [Mr. DELANEY] said. When he was before the Committee on Rules, he asked the gentleman from New York [Mr. CELLER] something about children going to school. The gentleman from New York [Mr. CELLER] said:

> If you do not like it, offer an amendment.

The gentleman from New York [Mr. DELANEY] said:

> My stars, it would take me a month to know about this bill. I do not know where I should offer an amendment and where I should not.

That is the truth—that is the truth.

Never has such a bill come before the Congress with the Congress knowing so little about it. I am telling you, I defy you—I tell you—not 12 men within the sound of my voice know this bill. I do not know this bill. I have studied it. I have studied it hard. Every time I read it, I find another boobytrap.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. McCULLOCH. Mr. Chairman, I yield 5 more minutes to the gentleman from Georgia.

Mr. FORRESTER. Could the gentleman give me a little more time, I have not talked in a long time.

Mr. McCULLOCH. Mr. Chairman, I am a generous man where money is not involved. I will consider the application when the time comes.

Mr. FORRESTER. Mr. Chairman, the gentleman is a wonderful man ordinarily. I feel somewhat as the Scriptures when it says, "Father, forgive him for he knows not what he does."

Let me say this to you. I wish I could talk to you a long time on this thing because I have some things in my heart about this. I would talk to you as an American to an American. I know how to talk to you. You know when I was in the Army in World War I, I thought I was ruined because I was the only southerner in my outfit. But I got along with you boys. I know you are pretty good—you boys are all right—on everything except civil rights—and we just have that once a year.

Now let me tell you what you have done. You have failed to profit by experience. In 1894, the Congress of the United States—probably in this very Chamber—wiped out election laws interfering with the States that they passed in times of hysteria and under the guise of civil rights. Do you know why? Because they were the crookedest elections ever conducted in this world. Those ultimate in crookedness were Federal elections—I have heard about certain elections—and not in Georgia either—where you do not count the votes—you weigh them.

But that was not even a circumstance, compared to what was going on under the guidance of the Federal Government, and you know it. If you do not believe it, you can get a copy of the House report, of the Congress, to see what they said about it. They said:

> Let every trace of these measures be wiped from the statute books. Let the States of this great Union understand that the elections are in their own hands and if there be fraud, coercion or force used, they will be the first to feel it.

Yet here they come back now, and they want to get to meddling again. Experience just does not teach us anything.

Members have the audacity to come and tell me that we would just be legislating on Federal elections. Well, I may be crazy, but I am no fool.

When anyone tells me that Federal elections means the election of a President, Vice President, Senator, Member of the House of Representatives, and other Federal officers, and "in whole or in part" I know better. I know better than that.

When they stuck in that "in part" I knew they were not dealing only with Federal elections. You know it, too. If you did make that mistake, I believe the gentleman from Louisiana [Mr. WILLIS] is going to accommodate you and permit you to rectify that. I believe he is going to offer an amendment to strike out "in part." If you do that, then we will have a bill on Federal elections. We should take him up on it.

The election proposals we are considering now would cover 46 States—that is right, there are 46 local and State elections. Do not tell me you do not want to do it, because you did do it. The intent is to meddle with State and local elections unless the phrase "in part" is not stricken from this bill.

Do you know what else you have done? You say you are not trampling on the rights of States to fix qualifications of voters. Why, you will fix them in my State. This thing was made for my State. You have them where they cannot wiggle.

You say that if certain questions are propounded to applicants for registration, and that is done for a little while, so as to become a pattern or practice, then they cannot deviate from it. Lord have mercy. If that is what you are going to do, why do you not simply say you are going to abolish the literacy test completely? A moron could sit outside and let the boys go in and get those questions. They would have to be the same questions. When they come out, they will tell what the questions are. They will be told the answers.

Can anybody deny that to be the truth? I suggested to the Attorney General, and I believe it shocked him, and he told me it was not true, but the Justice Department in its brief says it is true. I knew it was true all the time.

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. FORRESTER. How much time was that, Mr. Chairman?

The CHAIRMAN. That was 5 minutes additional.

Mr. WILLIS. Mr. Chairman, I gladly yield 10 additional minutes to the gentleman from Georgia.

Mr. FORRESTER. I thank the gentleman.

The CHAIRMAN. The gentleman from Georgia is recognized for 10 additional minutes.

Mr. FORRESTER. Perhaps I should move on, but I cannot resist this comment. Members of the subcommittee say we studied and studied. We studied hard. I wish they had let some of us come in there. Perhaps we could have refreshed their memory a little bit. You prohibit poll taxes regarding Federal elections. I would have said to you boys, "What do you want to put this provision in there for, to say that a State cannot have a poll tax?" I would have loved to have said, "Do you not know that a year ago we agreed we had to do that, abolish poll taxes relating to Federal elections by constitutional amendment? Do you not know we are the ones who set that machinery in motion, who had all the States vote on it and ratify it? If you can do it by statute why did we put them to all this trouble?" I just simply do not think this was studied much.

Mr. WILLIS. Mr. Chairman, will the gentleman yield at that point?

Mr. FORRESTER. I am glad to yield.

Mr. WILLIS. The Judiciary Committee brought out that proposed constitutional amendment to abolish the poll tax in Federal election, not "wholly or in part."

Mr. FORRESTER. Yes.

Mr. WILLIS. We did not even ask the people to vote for the "in part" on that. That was strictly a Federal election proposition, on the repeal of poll tax.

Mr. FORRESTER. The gentleman is exactly correct.

Mr. WILLIS. It applies only to Federal elections.

Mr. FORRESTER. The gentleman is exactly right and with this here "in whole or in part," what they will do by statute is, it will be saying to the States they cannot collect a poll tax even in State elections when that State election is on the same day and on the same ballot with a Federal election. That is what it is

Let us pass on now. I want to tell you something else you have done, and this I deplore with all my heart. You have a bill here, a simple statute, providing for public accommodations. I asked the Attorney General this and I asked him this because it grieved me. I said, "Mr. Attorney General, is there not a decision

of the Supreme Court holding this identical law or one similar to it absolutely unconstitutional?" And he said, "Yes, Mr. Congressman, that is true." But he said that down the line we required more information on the subject or something like that. He said, I think now that if you just give the Supreme Court another crack at it, they will hold it is legal. Well, I am not going to argue that with him. I think they will, too. That is just what I do not like; because they do not have any right to do it. You want to encourage me, a member of the Judiciary Committee, to draw a statute that I know is unconstitutional. I just simply refuse to do it, and I am not going to do it. Now I will tell you why I am not going to do it. It is the law of the land. And I will tell you another thing, too, and this is just as true as can be. The first decision of the Supreme Court on a constitutional question becomes the law of the land. At no time can it be repealed by a future decision and you cannot reverse it. The reason why you cannot is because you cannot make it fish today and fowl tomorrow. You have a wonderful remedy, though. If you think it is not the law, then you can amend the Constitution, and by doing that you will not get in this terrible mess. Nobody on God's earth knows what that Supreme Court will do, and you know it. Here you are now citing cases, commerce cases. Of course, the Supreme Court decided them, but you know they are ridiculous. You know they are utterly ridiculous. You know, I hope I will get up there, and I will see old St. Peter, and I want to tell him that I did not have a darned thing to do with stretching that commerce clause. I do not want to tell him who did; I tell you right now, you who are doing this—you are trespassing heavily upon the rights of the people, and making shambles of our Constitution.

Then above all, above all, these tolerance boys. I love everybody, but sometimes these tolerance boys strain me, bejust so doggone cruel. You know, nocause they just advocate things that are body like me or sharing my philosophies advocates forfeiture, and that is what you are doing. You come up here and you say that if you practice discrimination you cannot get one cent of Federal money provided for Federal assistance to its citizens. That was not supposed to be a political bonanza. It was supposed to be based on humanity and justice and mercy. But you get not one penny if you discriminate. But the great trouble is you forget, sirs, that the Constitution gives you the right to discriminate. Did you ever stop to think about that? Did you ever turn to your Constitution and read that 14th amendment that you put so much stock by? That 14th amendment guarantees to you equal protection of the law. You cannot take that money away from me. The Supreme Court might do it, but, by the grace of God, they will never do it legally. I will tell you that. I will tell you that. You cannot do that. Why, the Constitution is just riddled through and through with the statements that a citizen is entitled to the rights of a citizen, and when you said that citizens of a certain class should get certain money and then you say if he is practicing segregation to any extent he cannot have a cent of it, you are violating the Constitution as violently as anybody ever violated it.

There is another thing, too.

Back in the days of old England when they were just learning something about law and order; during the time they were indicting, trying and hanging roosters for crowing and disturbing church services, they also had a law that if a murder was committed in a shire and they did not produce the murderer, everybody in that shire would be fined a certain sum. But at least back then they gave them the benefit of clergy. You folks do not forgive us at all. The preacher cannot help us. You will not let him. We are just finished.

Mr. Chairman, this thing does not make sense at all. Here you are saying, If you want this money, do not practice segregation, or do not discriminate. Well, how far are you going to take that? Does a blond have the right to protest one being partial to brunettes? Does the Post have the right to say that you must not take the Star? What is going to happen? I do not know.

If you take my people's tax money and you spend their money, you are taking something that does not belong to you. I will tell you that point-blank. But that is what you are trying to do. You will be enriching yourself at the expense of another taxpayer, some other good American who was honestly standing on his constitutional rights to discriminate. That is mighty strange to me; declaring a forfeiture against a law abiding citizen is shocking.

You know, this did not apply to Oswald. If Oswald had not been killed he could have been sitting in his cell and gotten one of these Federal assistance checks. And he could have endorsed it and given it to the jailer to cash for him and put it in the bank. It does not apply to any murderer or to any counterfeiter and it does not apply to us Congressmen. If we are moved to do this we ought to hasten and pass a law that if we do something unbecoming for a Congressman, that our annuities which we pay for shall be taken from us, and even from our widows. You are not going to say to the Congressmen that they are not going to be allowed to receive that money that is coming to them because they were not good citizens.

No, the only place on earth where you do it is in this area of segregation and discrimination.

Now, people who complain about mistreatment certainly should not use the very tools that they say somebody used against them. I do not know why in the world we are fighting for the right to be mediocre. Can you tell me why? Why do we want to reduce the standards of our voters, can you tell me that? There is nothing on earth that can save a democracy except an enlightened and intelligent electorate. One who is not, even innocently, could pull down the pillars that support the temple of democracy. Do not forget that.

The platforms of the different parties, Republican and Democratic, illustrate eloquently what I am trying to say to you. When they come out they will come out with so many promises that nobody will believe, even that sixth-grader who was referred to in this election law proposal as being presumed qualified to vote. That is a sad commentary but no one on either side of the aisle will dispute what I have said. Both platforms are drawn to appeal to an ignorant electorate.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. FORRESTER] has again expired.

Mr. McCULLOCH. Mr. Chairman, I yield the gentleman from Georgia 5 minutes.

Mr. FORRESTER. Mr. Chairman, I thank the gentleman from Ohio very much; I appreciate that. Let me say this to you. If you do not believe this covers the waterfront you had better read what the Attorney General and the Justice Department said. You appropriated over $100 billion last year and now they say that a segregationist or one who discriminates cannot get a penny of it.

I will say this, you have been very patient. I would like to say I am tired. I go to bed early and I get up early. But I want to leave this statement with you, then I am through.

You talk about a Democratic government. This legislation is the most dictatorial ever submitted to a Congress. You say this legislation is mild, or a watered-down bill. Mr. Chairman, it is impossible to make it any stronger. You talk about balancing the equities? There is nothing equitable about it. The complainant, almost invariably the Attorney General, has every advantage against the defendant. He has the Government behind him, and the entire legal department. The litigation is free so far as the complainant is concerned, because the taxpayers pay the expense of litigation, although it deprives them of their liberties.

We just passed a bill out of the House providing counsel for indigent defendants, yet here in a few days we see the legal machinery of the United States thrown against one poor, little, puny one-horse farmer who wants his soil bank check and he cannot get it because somebody in a bureau down here or some fool rule said he is guilty of discrimination. How crazy can we get.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. FORRESTER. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. The gentleman mentioned about Members of Congress being excluded from this. Is there any danger in this bill if you do not integrate the staff in your office they may withhold your pay?

Mr. FORRESTER. I think we could do it, but I do not think we ever will.

Do you know what this thing reminds me of? It reminds me of a joke I heard. Down home one day two women were passing the terminal station. They looked in an express car and saw a little dog in a crate. One of them said:

Poor little dog. I wonder if he has had anything to drink. I wonder if he has had anything to eat. I wonder where he is going.

The baggage master said:

Lady, I do not know where that dog is going, that dog does not know where he is going, nobody knows where that dog is going, because the little devil has chewed up his tag.

Mr. McCULLOCH. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina [Mr. WATSON].

Mr. WATSON. Mr. Chairman, I am sure all of us are thrilled at the terrific speech which has just been made by my very esteemed colleague from Georgia [Mr. FORRESTER]. It certainly would be a presumption on my part to imagine for a moment I could even attract your attention, let alone measure up to the job he has done. I am grateful to the gentleman from Ohio for yielding me 10 minutes. I did not expect this to come until tomorrow, but I am delighted to have the opportunity and welcome the privilege of saying a word or two concerning this matter which I feel so very strongly about.

Let me say that notwithstanding the accusations which have been made in other places that we of the Southland have put these people of the Negro race under subjugation, that we have treated them wrongly, that we are hatemongers, may I just remind you, Mr. Chairman, for a few minutes that over the past 100 years we have been the true friends of the Negro race.

Notwithstanding our defeat, and being in ashes 100 years ago, when we southerners ate, everybody ate. When we had clothes, everybody had clothes. To be sure, we had varying standards of living down there, just as you have them from one end of the States to the other, but we were continually helping the Negro although our means were very limited. I wonder where were all of these bleeding hearts back over the past 100 years when we of the South were trying to give an education to these people who were unable to pay for it themselves, and most of them were unable to pay any taxes whatsoever. Where were all of these bleeding hearts who want to come out today and say, "Let me be a Moses, let me lead you to the promised land?" Let there be no mistake about it, we in the Southland believe in opportunities for all. We have not had the wealth that many of you in other sections of the Nation have had and therefore we have not been able to make the progress we would have made in lifting the standard of living for all of our people; but at the same time, notwithstanding the heavier burden that we had, we did the best we could.

I think it is just short of treason now that we have so many from other sections of the country that are running down South and stirring up trouble and dividing people who have lived together so well in harmony. Do not think for a moment that it is not easy to create animosity and dissension in every section of the United States, to run over and try to pit this race against another race, and it will work everywhere.

Do you think there is any particular problem in running out there and saying, "Look on the other side of the street, John. Are you not as good as he? Do you have that home; do you have that nice car?" But again let me ask you, Where were all of these bleeding hearts for these folks who were supposedly suffering so much? Where have they been over the past 100 years when we of the Southland were trying to give better educational and economic opportunities for all of our people?

Another thing, let me point out to you, the passage of a law is ineffective in dealing with this very delicate problem. The chairman of the committee, the gentleman from New York [Mr. CELLER], said we have 30 States with statutes on their books forbidding discrimination, and 25 forbidding discrimination in employment. Yet at the same time some of those States have been plagued with riots, demonstrations, and disorders not even known to our Southland. I refer to the State of Ohio, in Cleveland. They had demonstrations last year and some 40 were injured. They are having serious racial trouble now. Perhaps you saw on television last night, the Cleveland disorders, demonstrations we have never seen in the Southland notwithstanding the agitation by outsiders who want to run down there and use our people and divide them for the sake of getting some money or some publicity. But do you realize the fact that the State of Ohio has had a law against discrimination I believe since 1955, yet is it effective in putting down or preventing these demonstrations and riots?

I am not trying to oversimplify this thing, but I think you must conclude one of two things. You look at Ohio, you look at Pennsylvania, you look at Colorado. I am not just singling out these States because most of our States have suffered these same problems. If you pass this bill all of the States will suffer this problem. You are agitating, you are asking for trouble, you are deluding, you are perpetrating a fraud on the people you purport to help, because you purport to open the doors of opportunity throughout the United States and you are not taking care of the basic need; that is, better education and economic opportunity for all of our people. That is what we are doing today in the Southland. That will solve the racial problems more than the passage of an unconstitutional and unworkable law.

If we look at these Northern States or other areas that are having trouble, most of which have laws forbidding discrimination on their books, we can either say that the law is ineffective in dealing with this very delicate personal problem of associations or else you must say that these States are not enforcing their civil rights laws. Do not say for a moment that I got up here and said that Ohio, Pennsylvania, Colorado or any of the other States or New Jersey are not enforcing their laws so far as civil rights are concerned. They are doing the very best they can. But it shows you that even a law on a State level is ineffective to deal with this very delicate personal problem.

Let us quit trying to deceive all of the people into believing that you can solve this problem with the wave of a magic legislative wand. All you are doing is asking for more trouble. History will show you—even recent history will show you—we have had more disorders and demonstrations and racial unrest since the advent of the Civil Rights Commission than we ever had before.

I am privileged to serve on the Manpower Utilization Subcommittee of the House Committee on the Post Office and Civil Service. There was presented to us last year in testimony by the director of the so-called division of equal employment opportunities of the Post Office Department that they have had more complaints in the past 2 years since they introduced or set up this division than they had in the 6 years immediately preceding its establishment.

All you are doing is asking for trouble by the passage of this bill. It has been pointed out so effectively and clearly by Judge Willis and others that the bill is clearly unconstitutional. Certainly, you are going to have to face up to the fact that we need something in America upon which we have to cling and must preserve and respect as one of the most sacred documents that has ever been written—the Constitution. There is a way to amend the Constitution. To be sure, the framers of the Constitution made it difficult to amend—that is one of the things that has made our Constitution survive when other constitutions have crumbled—the fact that it is difficult of amendment. But, yet, the amendment process is easy enough, and if the amendment is necessary, then it will be passed. I would plead with the gentleman from the Committee on the Judiciary and, indeed, with all of you—if this is needed so much and if the people are so much for it, then why do you not follow the orderly process of amending the Constitution by the provisions set forth in the Constitution rather than trying to amend it here by the passage of a bill such as this on the floor of the Congress?

Let me say again, and I believe I speak for everyone down South—when you say this is an emotional issue—we do feel very strongly about it because we yield to no one in our patriotism and our love of country and our love of the Constitution. This is a very emotional problem. We want to preserve our Constitution. We want to give all of our citizens equal rights and equal opportunities. We do not want to deceive any of our citizens into believing that the passage of this law will give them better jobs or will open the doors to all of these areas to them. You are going to find this bill will drive further the wedge of racial dissension and animosity not only in the Southland but throughout the country. Let us be fair with all of the people. I believe in respecting the rights of the minorities as much as any man or woman in this body. But at the same time, I believe in respecting the rights of the majority. You cannot give one excessive rights without in turn trampling upon the rights of others.

This is a serious matter. In fact, it is the most important piece of legislation that we have considered not only in the brief span that I have been privileged to serve here, but I dare say it will be

the most important matter that we shall have to consider in this or any other Congress. I do not want to be a fatalist, but if this measure is passed, I predict it will live to curse this Congress.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I wish to say to my distinguished colleague from South Carolina that the riots and demonstrations in Cleveland, Ohio, which we so much regret, were not the result of discrimination by reason of race, religion, or national origin, which is prevented by the Constitution. That fact is unmistakably clear.

Mr. WATSON. Mr. Chairman, will the gentleman yield for a minute?

Mr. McCULLOCH. I yield.

Mr. WATSON. I do not know what has precipitated the immediate disorders and dissension there. I understand from the press reports that it is a matter of the forced mixing in the school, perhaps trying to bring in the racial balance system which is foreign to education. Perhaps I am incorrect, but as I recall, the problem there last year arose from discrimination in employment at a hotdog stand at the Cleveland airport. If I am incorrect I apologize to the gentleman. I did not wish to single out Ohio.

Mr. McCULLOCH. I understand that, Mr. Chairman. Again I wish to make it unmistakably clear that the legislation now before the Committee has no effect and can have no effect on racial imbalance, as that term is known.

Mr. CELLER. Mr. Chairman, I yield 10 minutes to the gentleman from Colorado [Mr. ROGERS].

Mr. ROGERS of Colorado. Mr. Chairman, I am reminded somewhat of the story which was told of a political meeting, where one of the long-winded speakers spoke for about 2 hours, and his audience proceeded to leave him until there was only one man down in front. When he had finished his speech he ran down to him and said, "Did you enjoy my speech?" And the man replied "Hell, no; I am the next speaker."

I trust that I shall not take too much time, but I wish to point out that this legislation, as proposed and reported by the Judiciary Committe, is constitutional in every respect.

If those who have addressed themselves to the so-called passion and pleas with respect to unconstitutional action by the Supreme Court will bear with me for a little while, I will try to point out that the Judiciary Committee, for a period of approximately 4 months, from May of this year until August, conducted hearings, and that for 7 weeks the committee sat and tried to write up a bill. On the 2d day of October we reported a bill. Thereafter, from the 7th of October until the 29th, those who have stood before the House today and said they had no opportunity to discuss it, I am sure will be interested to know that the record reflects it was before the committee on two separate occasions and fully discussed.

If Members wish to look further, they will find that the Attorney General was called before the Judiciary Committee and he was cross-examined for 2 days. The examination by the gentleman from Georgia took up exactly 10 pages, as Members will find if they take a look at the civil rights executive hearings that have been made available.

Let us get down to the question of what is in the bill and not what are the generalities.

Title I deals with voting rights. If Members have the committee report available and would like to follow along with me, I suggest they turn to page 33 of the committee report. The reason I suggest Members do that is because, under the Ramseyer rule, it is necessary to set forth first what is the law and second how it is intended to be amended. If Members will turn to page 33 they will find that section 2004 deals with voting rights, and section (a)(1) shows what is the law now. That statute has been in force and effect since 1870.

Now, what does that statute provide? It says:

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Now, that has been on the statute books since 1870, and any individual from that time down until 1957 had a right to go into Federal court and allege that he was being deprived of his right to vote and, upon that allegation and proof that he was qualified to vote under the State's laws, he could then be registered and permitted to vote. Now, what did we do? In 1957 we amended this section by adding another section which in effect said that if anybody intimidates or tries to coerce or threatens one with respect to his right to vote, then he could be enjoined, and we then authorized the Attorney General to become the lawyer of any individual who believed that his rights were being taken away from him.

Then again in 1960 we amended it further.

Let us follow through on this. It is the italicized part (a)(2) which follows thereafter, about which so much has been made of here, to the effect that we are changing State laws and that we by this legislation are moving into a field that is reserved exclusively for the State. First, I want to say that that statement is not true. Anybody that will analyze it will readily see that while the Federal Government has the authority to enter into certain areas of this, in this legislation they do not do so, because we say, "In determining whether any individual is qualified under State law or laws to vote in any Federal election." The determination is made under the State law. Then we go ahead and say that if they apply a different standard, then the courts should go in and say that you cannot apply a standard for a colored man on one end and a white man on the other end. That is what we mean by this and it does not affect the State law at all.

For the benefit of those who would also like to take a look at what has happened after the Civil Rights Act was passed in 1957 and again in 1960, you will find that the Attorney General of the United States, the former Attorney General, William Rogers, and the present Attorney General, filed at least 29 lawsuits under this setup. That is on page 2709 of the executive hearings conducted at the time that the Attorney General appeared before the committee and testified. This list shows that there was definitely a slowing down of these cases after they were filed in the courts.

Now, how do we proceed further under this section on voting rights? The next section says that if the election officials try to disqualify an individual because of an immaterial error or omission, then they should not disqualify him, but if it is a material error that has been made, then that is subject to proof before the court.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Colorado. I will be glad to yield.

Mr. WAGGONNER. In trying to reach a determination as to what constitutes an error, what are to be the guidelines? If we try to judge theft, is it the theft of $100 or $1 million?

Mr. ROGERS of Colorado. May I say to the gentleman that each case will stand on its own bottom.

Mr. WAGGONNER. And who is to judge?

Mr. ROGERS of Colorado. Under this, the Federal judge of the district in which the case is filed. You are in court and he has the right to make the determination of whether or not this is a material error or whether it is immaterial and purposely done to prohibit the man from voting.

Mr. WAGGONNER. In other words, the gentleman is saying that the judge can say, "You have made just a little bit of an error, you are just a little bit unqualified but not unqualified enough."

Mr. ROGERS of Colorado. No; I am saying that the judge under this law has a duty and responsibility. If a registrar at an election place is disqualifying people—let us say he is asking how old the person is and the person said, "Well, I am 40 years and 8 months old," and the registrar says, "I see you were born on such-and-such a date, you are 40 years and 9 months old, hence you are not qualified to vote;" that is what we are driving at.

Mr. WAGGONNER. Then if that registrar applied the same sternness to every applicant, would the registrar be within the law as prescribed here?

Mr. ROGERS of Colorado. I do not know what law of what State the gentleman is talking about, but if it is under a State law where the registrar has the duty and responsibility and he discriminates against an applicant and fails to register him and gives some picayune excuse, some excuse that is not germane to the point whether this man is qualified, then the Federal judge upon an action being filed, is authorized to register him.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield further?

Mr. ROGERS of Colorado. I yield.

Mr. WAGGONNER. Can the gentleman tell me what would be picayune? If it were under State law and if the State law were administered without favoritism as to any applicant regardless of race, color, or creed, what would be picayune?

Mr. ROGERS of Colorado. I think the evidence is pretty clear on that. I want to direct the gentleman's attention to a list of cases that became necessary for the Attorney General to file with his own statement on page 2709 of the hearings. If the gentleman will examine those, he will find examples time and time again. If you want to take the case of United States against Rains where the Supreme Court said that this law was constitutional, and then see what the Federal court found in the State of Georgia as to discrimination that was being exercised by the election officials down there, it will give you enough information to understand what we are trying to get at in that area.

The next situation about which we have had so much criticism is in subparagraph (C)—"employ any literacy test as a qualification for voting in any Federal election unless (i) such test is administered to each individual wholly in writing except where an individual requests and State law authorizes a test other than in writing."

First of all let me make it clear that there is no requirement so far as this law is concerned that there be a literacy test, but if a State has one and they want to employ it what we are trying to say is that they employ it equally to everybody. Experience has demonstrated, according to the testimony that was given, that time and time again, if a white man came in he got one form of a test, and if a colored man came in he got another. This says that if the man comes in and says he wants to take it in writing, it will be reduced to writing so that no one can dispute what he has answered to the questions that were propounded.

That is the only reason the literacy test is given. The State is not obligated to have a literacy test, but if they do they have got to employ it with equal fairness to everybody.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield for a question?

Mr. ROGERS of Colorado. Yes.

Mr. WAGGONNER. Am I to believe from what the gentleman has just said that if the State has a literacy test as a prerequisite to voting, that they may have a requirement of more than a sixth-grade education?

Mr. ROGERS of Colorado. Certainly they can. Once you bring up the question of the sixth grade, this literacy test is a matter for the State to make the determination on. Those are procedural matters in the operation of a State law. It has nothing to do with Federal law. It says that if you have a State law which says that these standards shall be met, that these literacy tests shall be employed, we provide that it shall be applied fairly and equally to everybody. That is all we are trying to do.

Mr. WAGGONNER. Let me ask one other question with regard to this vote matter. If the State under this new legislation, if passed at the Federal level, so desires, can it continue to enact whatever voting registration qualifications and requirements they desire, if they shoulder the responsibility of administering those voter registration qualifications without favoritism to anyone under any conditions?

Mr. ROGERS of Colorado. We get to this point. You ask the question: Can they enact anything they desire?

Mr. WAGGONNER. Let me rephrase the question. Can they continue to enforce the registration laws that are presently on the books?

Mr. ROGERS of Colorado. If they apply them equally to everybody, they can. The point here is that the evidence before the committee reflected that time and time again, including the gentleman's State of Louisiana, there was an unequal application of the State laws to the people who made the request to be registered. That is the reason these provisions were put in here.

Mr. WAGGONNER. Regardless of what happens to this proposed legislation, should this legislation be enacted, my State of Louisiana, with their present voter registration laws, would have the option of continuing those laws which are presently on the statute books in Louisiana, if they enforced these laws without discrimination?

Mr. ROGERS of Colorado. There is this inhibition. No State has the right to say, for example, that only red-haired people can vote, or only those with blue eyes can vote—such limitations as that. Only reasonable limitations that are applicable for determining what is a qualified voter. If they apply equally you have no trouble. You would not have the Attorney General down there with Federal lawsuits. But if you do not apply them equally, if you have one standard for a white man and another standard for a black man, or if you require certain things of a black man in a literacy test and you require him to be exact in every particular, then we are giving to the Attorney General the authority to move in and prove to the court that discrimination has been practiced.

Mr. McCULLOCH. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota [Mr. MACGREGOR].

Mr. MACGREGOR. Mr. Chairman, it is my purpose in the limited time I have, and at this late hour, to address myself to the constitutionality of the public accommodations section of this legislation, perhaps more specifically to the 14th amendment basis for title II.

The very distinguished gentleman from Louisiana [Mr. WILLIS] referred in his remarks to the fact that we are now saying that private restaurants cannot choose their customers and that in so doing we are flying directly in the face of a Supreme Court decision. The gentleman from Louisiana [Mr. WILLIS] undoubtedly refers to a Supreme Court decision of 81 years ago, a decision handed down determining that in part, but only in part, the Civil Rights Act of 1875 was unconstitutional.

A portion of that 1875 Civil Rights Act was shortly after its enactment held to be constitutional, and its constitutionality was reaffirmed in the decision to which the gentleman from Louisiana [Mr. WILLIS] referred.

Those portions held to be constitutional had to do with a prohibition on the part of a State in denying to a man by reason of his color service on a grand or a petit jury. The provision to which the gentleman from Louisiana [Mr. WILLIS] referred was undoubtedly that contained in sections 1 and 2 of the Civil Rights Act of 1875, those sections that deal with public accommodations. They sought, wholly ignoring the question of any State action, to operate directly on innkeepers and certain other persons engaged in holding out services to the public.

It will be readily seen by a cursory examination of title II proposed in the legislation before us that there are substantial differences between the Civil Rights Act of 1875 and its public accommodations provisions and title II of the act we will be passing next week. In the Supreme Court decision of 1883 the Court stated as follows:

> The 14th amendment is prohibitory upon the States only and the legislation to be adopted by Congress for enforcing it * * * is corrective legislation such as may be necessary or proper for counteracting and redressing the effect of such laws or acts.

This is precisely the legislation which you have before you, legislation which seeks in the public accommodations provisions to redress the effect of unconstitutional laws and acts by various of our States and municipalities.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to my chairman.

Mr. CELLER. In other words, what the gentleman believes the majority is seeking in the civil rights bill is that the Court said it is up to Congress to make the change, a change we are now making, and there is a likelihood that the Court would hold it constitutional.

Mr. MACGREGOR. The chairman put put it very well.

Further on in that opinion—and, of course, the gentleman knows there was a dissenting opinion by Justice Harlan—a clear distinction was made between direct legislation which was found to be improper and corrective legislation which sought to redress imbalances, which sought to redress grievances resulting from the passing of discriminatory laws or the conduct in a discriminatory fashion of State officials and agents.

The Court in 1883 found the 1875 act unconstitutional in part because it proceeded directly to declare:

> That certain acts committed by individuals shall be deemed offenses, and shall be prosecuted and punished by proceedings in the courts of the United States.

It was defective in that it did not profess to be corrective of any constitutional wrong committed by the States; it did not make its operation to depend upon any such wrong committed.

This, of course, as the chairman has indicated, is the thrust of the 1883 opinion, to which the gentleman from Lousiana referred, namely, that the legislation of 1875 in the sections referred to is unconstitutional because it is not corrective legislation tied to the 14th amendment and because its operative effect does not depend on any wrong committed by a State or State authority.

It is important to note that in the legislation we are now considering we have very carefully, in the Committee on the Judiciary, in the drafting of this legislation tied the operative effects of section 2 to various actions by the States. It is prohibitory in nature. It is not direct legislation but corrective legislation.

It is most important in reviewing the decision which the gentleman from Louisiana mentioned to note this language:

Whether the statute book of the State actually laid down any such rule of disqualification, or not—

Here the Court was talking about that part of the act which it found to be constitutional.

Whether the statute book of the State actually laid down any such rule of disqualification, or not—

With respect to Negroes serving on juries—

the State, through its officer, enforced such a rule: And it is against such State action, through its officers and agents, that the last clause—

Of the Civil Rights Act of 1875—

is directed.

This aspect of the law was deemed sufficient to divest it of any unconstitutional character, and makes it differ widely from the first and second sections of the same act which we are now considering.

So, too, Mr. Chairman, the language of the public accommodations law under the 14th amendment we are now debating ties its operative provisions to the authorizing acts of a State or a political subdivision thereof. Thus, it divests itself of any unconstitutional character.

The courts have held, in a variety of situations, that State participation and involvement in discrimination or segregation by a private establishment may take the discrimination out of the area of purely private action, and subject it to the 14th amendment. This will clearly be the case if discrimination or segregation is required by State or local law, or by the actions of State or local officials. It may be the case if the establishment is located on public property, or operated under contract, lease, or similar arrangement with the State.

A number of cases have granted such relief against private businesses in such circumstances. In some cases, public officials were joined as defendants. In others, they were not. It is thus clear whenever discrimination or segregation even in private business involves State action, it is within the reach of the congressional power under the 14th amendment.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. WAGGONNER. In section 201 of the report discussing title II, having to do with public accommodations, it says:

Section 201(b) defines certain establishments to be placed as a public accommodation if their operations affect commerce, or if discrimination or segregation in such establishment is supported by State action.

Now what is the definition of State action here? Is it State legislation preventing such transactions?

Mr. MACGREGOR. Let me answer the gentleman by referring first to section 202, and I think this is important because it may help the gentleman, and also help to straighten out the minds of many of the members of the committee with respect to what the gentleman from Louisiana said. He referred to section 202, without mentioning it by name, and he said we were expanding the area of our public accommodations that were covered because, and he said, in a portion of the bill we are talking about, "any establishment or place."

What he did not explain to our committee, however, was that section 202 is limited in its scope to situations where a State requires segregation.

Section 202, if I may read it, and I think it is important, reads as follows:

SEC. 202. All persons shall be entitled to be free, at any establishment or place, from discrimination or segregation of any kind on the ground of race, color, religion, or national origin, if such discrimination or segregation is or purports to be required by any law, statute, ordinance, regulation, rule or order, of a State or any agency or political subdivision thereof.

Mr. WAGGONNER. If there is no law, rule, or regulation or order, does this apply?

Mr. MACGREGOR. The answer is—it does not apply. Section 202 is limited to those situations in which a State is enforcing an unconstitutional law requiring segregation.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I yield.

Mr. LINDSAY. I believe the gentleman is making an extremely important statement and one which should be made to clarify the confusion existing in the minds of some people.

It is true, is it not, that State involvement can go beyond a statute or ordinance of some kind, not in a section but in the full title?

Mr. MACGREGOR. Absolutely.

Mr. LINDSAY. For example, the Supreme Court has made a holding in a case involving a local sheriff. Perhaps the gentleman will touch on that.

Mr. MACGREGOR. Let me give a specific example of a case which was decided by the Supreme Court last year.

An example of what is meant by discrimination or segregation "fostered or encouraged" by State action is afforded by *Lombard* v. *Louisiana*, 376 U.S. 267 (1963). There, Negroes who attempted to obtain service at a restaurant in New Orleans were refused and, upon conducting a peaceful "sitin," were arrested and later convicted under a trespass statute. There was no applicable segregation law or ordinance. However, the chief of police and mayor of the city had previously made widely publicized statements to the effect that attempts to obtain desegregated service by sitins would not be permitted. The Court, in reversing the conviction, held that the absence of a statute or ordinance making desegregation unlawful was not decisive and that the statements and conduct of the city officials were sufficient to constitute State action.

Thus, it seems clear that any activities of public officials plainly calculated to maintain segregation in an establishment subject to the descriptive provisions of section 201, would result in a finding that such segregation is "fostered or encouraged" by State action.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MACGREGOR. I am happy to yield.

Mr. CELLER. Do not the recent cases, including the Lombard case to which the gentleman refers, adumbrate the fact that one might infer from certain factors or facts in a given case that there is a custom or usage, and that might be sufficient to invoke the 14th amendment?

In the Lombard case Justice Douglas said, among other things:

Segregation is basic to the structure of Louisiana as a community.

He went on to say:

The custom that maintains it is at least as powerful as any law.

That case and other similar cases seem to point to the fact that it is not necessary to have an ordinance—it is not necessary to go as far as the Lombard case, to have a sheriff or some official give instructions or orders; that if there is in a community a custom or usage which requires or encourages segregation and discrimination that might be ample to invoke the 14th amendment.

Mr. MACGREGOR. I would agree with the chairman, but I believe there needs to be a further clarification.

The "custom and usage" to which the chairman and I have been referring is not constituted merely by a practice in a neighborhood or by popular attitudes in a particular community. The cases clearly hold that this "custom and usage" consists of a practice which, although not embodied in law, receives notice and sanction to the extent that it is enforced by the officialdom of the State or the locality.

Mr. Chairman, I fully recognize that with respect to title II and other controversial provisions of this legislation arguments may properly lie and differences may well exist among us, but in truth a serious student of the constitutionality of the public accommodations provision, as we have drafted it and submitted it to the House in this bill, would have no serious question that the legislation is constitutional, and legislation predicated on the 14th amendment is necessary in America today.

Mr. CELLER. Mr. Chairman, I yield the gentleman from Alabama [Mr. ELLIOTT] such time as he cares to use.

Mr. ELLIOTT. Mr. Chairman, I have studied this bill for the past 4 weeks, while it has been under consideration by the House Rules Committee, and while hearings on it have been held by that committee.

This is the most complicated bill that will be before the U.S. House of Representatives during this session. The bill has not yet had the careful consideration that it deserves. It has not been thoroughly considered by the press, or the people. A bill of such complexity and complication cannot be readily understood until there has been time for press, radio, television, and word of mouth to spread information about it. I do not believe the average American yet understands the full import, and the future impact of this bill. It is for this reason that I feel that the rule making this bill in order did not allow enough time for its consideration.

In the House Rules Committee I voted against giving this bill a rule. I urged in the Rules Committee that more time be allowed for general debate than the 10 hours which this rule provides for. In the House Rules Committee, I moved that the Civil Rights bill be indefinitely postponed. That motion was defeated. In the House Rules Committee, I supported the motion of the gentleman from Mississippi [Mr. COLMER] that the bill be sent back to the House Judiciary Committee. That motion was defeated also.

Mr. Chairman, the truth is that this bill has not heretofore had adequate consideration. We must give it the consideration here that our country deserves that it have. We must use all the time available for debate, and try to stretch that time over the whole bill as nearly as it can be done.

This bill is far reaching. It makes hundreds of changes in existing law. It goes much further than any prior statute, or court decision, or regulation has ever gone in the fields that it purports to cover. The people are entitled to know what it does. They are entitled to have their representatives consider it. They are entitled to have its provisions talked about over our land.

This is not the Kennedy civil rights bill. It goes much, much further than recommendations the late President Kennedy made. It gives the Chief Executive and the Attorney General powers which President Kennedy never had, and never even asked for. That is the kind of bill it is.

CUTTING OFF FEDERAL AID

This bill gives the Federal agencies and departments the right to cut off Federal aid of various kinds in the areas where some administrator decides that he will do so. Think of that. In the years immediately past I have heard tens of Federal officials say that they did not have that power. I have heard them say they did not want that power. I have heard many officials say that they would not care to exercise such power if they had it. Think of it, giving a Federal administrator the power to cut off the supply of milk to the school lunch program; there are a hundred other examples I could cite. Now, this bill lodges this power in Federal administrators and authorizes them to use it not against a person or a group of persons who have contrived to violate some criminal statute. Not at all. The Federal administrator in these cases is empowered to cut off Federal funds against a people for doing what they have been doing every day of their lives, and what their fathers, and forefathers, did every day of their lives going back to the beginning of America.

FEPC

Another title of this bill writes into law what used to be known as the Federal Fair Employment Practices proposals. The Committee on Education and Labor has jurisdiction over that subject matter but for some reason we find it here. Listen to these words. Listen to what the bill says:

Section 704. (a) It shall be an unlawful employment practice for an employer—

(1) to fail or refuse to hire or to discharge any individual * * * because of such individual's race, color, religion or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's race, color, religion, or national origin.

Here we will have written into law, if this language stands up, the provision that an employer cannot fail or refuse to hire anyone because of the color of his skin, or his racial background, his religion, or his national origin if a job vacancy exists. Suppose that a restaurant operator prefers Negro waiters. Then this bill makes it unlawful for him to fail or refuse to hire a white man who wants to be a waiter and who is otherwise qualified for the job, if the restaurant owner has a vacancy. The same would be true in reverse if the restaurant operator wanted white waiters. Suppose that a restaurant caters in its food and service to persons of a particular national background, and suppose in furtherance of that preference or that specialty that he limits his waiters or other employees to persons of the particular national extraction that he prefers. To do so, under this language, would certainly be a violation of law whenever and wherever some person of another national origin prefers to fill a job vacancy that might exist on the staff of waiters or other employees of the restaurant.

There are many, many pitfalls in this bill. It shall be my intention to do what I can during this debate, both on the floor and off, to point out these pitfalls and shortcomings so that the American people may understand what the Congress is writing into law for them to obey and abide by in the future.

I oppose the rule. I oppose the bill.

Mr. ALBERT. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. MOORHEAD] may extend his remarks at this point in the RECORD and include extraneous matter.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MOORHEAD. Mr. Chairman, I think the remarks I recently made at Yale University Political Union are pertinent to the debate today. Under general leave, I insert these remarks along with an editorial from the Washington Daily News on this subject:

PUBLIC ACCOMMODATIONS AND DISCRIMINATION

The controversy over public accommodations and discrimination is one of the newest and yet one of the oldest that man has faced. It is as new as today's newspaper, and yet it is so old that it is said to go back to "time immemorial."

It is new because this year for the first time public accommodations has become the focal point, the rallying ground, for advocates of civil rights. For many years, this position was occupied by the controversy over fair employment practices.

Let's take a brief look at recent developments in the field of civil rights. From the time of the Civil War Reconstruction period until World War II, there was nothing in the field of civil rights which is worth recording.

When the issue arose again, it came in the form of fair employment practices. In 1941 after pressure from Negro leaders, President Roosevelt by Executive order established a Committee on Fair Employment Practices, with limited enforcement powers, to eliminate discriminatory employment practices in companies and unions with Government contracts, or engaged in war work. In 1946, by the device of a rider attached to an appropriations bill, this committee was killed.

Thereafter, in the postwar years, the greatest pressure was for fair employment legislation.

The strongest plank in President Truman's civil rights program was FEPC legislation. It was Mr. Truman's civil rights program which led to the Dixiecrat bolt from the Democratic Party and cost him the electoral votes of four Southern States. After several attempts, FEPC finally reached the floor of the House and after an amendment making it voluntary, it was passed by the House by a vote of 240 to 177, but this bill died in a Senate filibuster.

In the following years, fair employment practices was considered by various committees, but the 1957 Civil Rights Act as proposed by the President and adopted by Congress did not contain a fair employment practices section. Similarly, the 1960 Civil Rights Act as proposed an adopted did not contain fair employment practices, even though both party platforms adopted in the same year contained planks favoring fair employment practices. The civil rights bill as originally introduced this year did not contain fair employment practices.

However—and this is significant tonight—in 1960 neither party platform contained any provisions about ending discrimination in public accommodations. The first step toward desegregation of public facilities was done by Executive action in 1961 and related to facilities in rail, airport, and bus terminal facilities.

Until this year, so far as I can determine, there was no bill introduced in Congress, let alone considered in committee, which related to ending discrimination in public accommodations generally. Yet, because of the sitins and Birmingham and the rest, public accommodations has become the hottest item in the civil rights battle.

Yes, this subject is new and it is as hot as a 10-cent firecracker. Two weeks ago, a subcommittee of the House Judiciary Committee reported an omnibus civil rights bill with a strong public accommodations title. Just last week, the Senate Commerce Committee reported a bill devoted exclusively to ending discrimination in public accommodations. Just today, this very morning, the Supreme Court heard argument on the sit-in cases.

Mr. Chairman, you could not have selected a more timely or a more important subject for debate by the Yale Political Union.

But this controversy is not so new. The roots of the problem are buried deep in the common law.

The earliest common law decision I have found occurred in the reign of King Henry VII in 1450. In *De Termino Pascal*, Keilway 50, pl. 4 (1450), as translated from the Norman French, "It was declared by all of the court that if a smith refuses to shoe a horse or if a hosteler refuses to give me shelter, an action will lie against him." This principle was followed in *White's* case (2 Dyer Rept. 158 (1558).

The venerable Blackstone, author of the famous "Commentaries on the Laws of England" (vol. 3, p. 165) restates this common law principle as follows:

"Also, if an innkeeper, or other victualer, hangs out a sign and opens his house for travelers, it is an implied engagement to entertain all persons who travel that way; and upon this universal assumpsit an action on the case will lie against him for damages, if he, without good reason, refuses to admit a traveler." (P. 165, Blackstone's "Commentaries on the Laws of England," ch. IX, vol. 3, 1847.)

Undoubtedly, Blackstone was influenced in his "Commentaries" by the case of *Lane* v. *Cotton*, 12 Mod. 472, 484 (1701) in which the English court in 1701 anticipated the Yale Political Union debate tonight by saying:

"Whenever any Subject takes upon himself a Publick Trust for the Benefit of the rest of his fellow Subjects, he is *eo ipso* bound to serve the Subject in all the Things that are within the Reach and Comprehension of such an Office, under Pain of an Action against him. If on the road a Shoe fall off my Horse, and I come to a Smith to have one put on, and the Smith refuse to do it, an Action will lie against him, because he has made Profession of a Trade which is for the Publick Good, and has thereby exposed and vested an interest of himself in all the King's Subjects that will employ him in the Way of his Trade. If an Inn-keeper refuse to entertain a Guest, when his House is not full, an Action will lie against him; and so against a Carrier, if his Horses be not loaded, and he refuse to take a Packet proper to be sent by a Carrier."

When the United States achieved independence, most of the States by legislation or by judicial decision, adopted the common law. Therefore, they adopted the common law rule of public accommodations that an innkeeper was obliged to receive everyone who offered himself as a guest, so long as there was sufficient room to accommodate him, and no good reason for refusing him. Therefore, from the beginning, State laws generally prohibited discrimination, in public accommodations, at least insofar as innkeepers are concerned. Brief research indicates to me that the common law rule against discrimination continues to exist in such States as Georgia, North Carolina, Oklahoma, and Virginia.

Such States as Alabama, Florida, Delaware, Arkansas, and Tennessee which originally adopted the common law have recently enacted statutes expressly repealing the common law duty of an innkeeper.

Louisiana, not being a common law State, is a special case in point. Prior to 1954, the Louisiana Revised Statutes provided as follows:

"SECTION 4:4

"Licenses for places of public resort; conditions against discrimination; penalty; damages.

"All licenses granted by Louisiana and by all parishes and municipalities of Louisiana to persons engaged in the business of or keeping places of public resort shall contain the express condition that the place of business or public resort shall be open to the accommodation and patronage of all persons without distinction or discrimination on account of race or color.

"Whoever violates the condition of the license shall forfeit his licenses and his place of business or of public resort shall be closed. Moreover, he shall be liable at the suit of the persons aggrieved to such damages as the latter shall sustain."

I can just imagine the horror which must have been felt by some stanch segregationist in Louisiana, when he read this portion of the Louisiana laws. His horror was contagious and the Louisiana Legislature by Act No. 194 repealed these sections in 1954.

On the other hand, some 30 States[1] and the District of Columbia have statutes which either expressly prohibit discrimination on account of race or color in places of public accommodations or generally declare the right of all citizens to the full enjoyment of public accommodations.

As a Pennsylvanian, I am pleased that Pennsylvania is among those States. Pennsylvania's first public accommodations law was passed on May 19, 1887. It was a criminal measure declaring: "That any person, company, corporation, being owner, lessee or manager of any restaurant, hotel, railroad, street railway, omnibus line, theater, concert hall or place of entertainment or amusement, who shall refuse to accommodate, convey or admit any person or persons on account of race or color over their lines, or into their hotel, or restaurant, theater, concert hall or place of amusement, shall upon conviction thereof, be guilty of a misdemeanor, and be punished by a fine not less than $50 nor more than $100."

In 1935, the 1887 Statute was amended. First, this act affirmatively stated that all persons within the jurisdiction shall be entitled to the full and equal accommodations of public places, subject only to conditions and limitations applicable alike to all persons. Secondly, it was declared that no person, directly or indirectly, was to refuse, withhold from, or to deny such accommodations on account of race or color, or to advertise to that effect or to the effect that the patronage of persons of a particular race was unwelcome. The production of any such advertising was declared to be presumptive evidence in a criminal proceeding. Thirdly, places of public accommodation were broadly defined. It was expressly stipulated that the act did not apply to places which were distinctly private in nature.

In 1961, the Pennsylvania Fair Employment Act (Penna. Laws 1955, p. 744) was amended so as to embrace discriminatory practices in housing and public accommodations, as well as those in employment. This act creates the human relations commission in the department of labor and industry, defines its functions in hearing complaints of discrimination, provides for procedures of education and conciliation, establishes enforcement procedures, provides for judicial review and enforcement, and imposes penalties.

As a result of the 1961 law, for the first time, there was created efficient machinery for proper administration of public accommodation complaints. During the annual report year 1962 (ending Feb. 28, 1962), a total of 50 complaints was filed by individuals or the commission. The type of respondents were as follows:

Hotels, motels	13
Eating, drinking places	13
Retail stores	1
Recreation, amusements	17
Personal services (barber shops, beauty salons, etc.)	4
Resorts, lodges	1
Other	1

Of these, 7 cases were found as charged and adjusted, 7 cases were found to have no specific charge; the other 36 had adjustment pending.

The important thing to note here, I think, is the amazingly small number of cases in a year's time. Pennsylvania has a total of 864,616 nonwhite residents, or, over 7 percent of the population, and relatively speaking, these individuals would not fail to lodge a complaint should the need arise. This seems to point out to me that public accommodations laws have not resulted in chaos, in legal confusion, or in governmental bullying. I have neither seen nor heard any objections from the vast majority of businessmen of our State who have responded admirably to the law in point.

I believe that our experience in Pennsylvania is relevant. In the district which I represent in Congress, most Negroes are too economically deprived to exercise their right to equal use of public accommodations to which they are legally entitled. I think that the same condition exists in the South. This, however, does not make a public accommodations law unimportant. All Americans of all races and national origins are proud. They are more interested in the possession of a right than in the exercise of that right. Once the pseudolegal basis for the denial of a constitutional right is abolished, the importance of the exercise of that right is minimized.

There remains, however, the question as to whether public accommodations is a proper area for action by a Federal Government. Frankly, I would probably prefer that this action be taken at the State level. However, the legislative repeals of the common law rule of public accommodations by the States of Alabama, Florida, Delaware, Arkansas, and Tennessee clearly indicate that this will not be done. As a result, a constituent of mine, an American citizen, who travels in certain States will be subjected to public humiliation for no other reason than the color of his skin.

What are the accommodations measures currently being considered?

The Senate Commerce Committee has approved an accommodations bill which differs somewhat from the proposal written by a House Judiciary Subcommittee and sent to the full committee.

In the Senate version, the ban on discrimination is based entirely on the Federal power to regulate interstate commerce and extends only to those business enterprises which are primarily engaged in selling goods rather than providing services and which substantially affect interstate commerce. The House version, although based primarily on the commerce clause of the Constitution, draws power as well from the 14th amendment; it would forbid discrimination by any business under State or local authorization, permission or license, assuming action by any such business to amount to State action.

The Senate bill contains no long preamble, just a brief section that discrimination is a moral injustice and an affront to human dignity and a violation of the Constitution generally. Unlike the House version, the committee wrote in a new section outlawing racial or religious barriers to membership in labor unions and professional business and

[1] Alaska, California, Colorado, Connecticut, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Washington, Wisconsin, Wyoming.

trade associations. The Senate version also contains a section involving criminal contempt and makes a shift of emphasis away from enforcement of the discrimination ban by lawsuit.

This entire question is now being debated in the Congress of the United States.

I believe that you are rendering the Congress and the country a great service by debating it here in the Yale Political Union. You are rendering a great service because this is an issue which needs to be deeply and thoroughly understood.

I look forward eagerly to hearing this debate.

[From the Washington Daily News, Oct. 18, 1963]

BLACKSTONE ON CIVIL RIGHTS

We are indebted to Representative WILLIAM S. MOORHEAD, of Pittsburgh, for further reminder that the public accommodations section of the civil rights bill is based on ancient Anglo-Saxon tradition.

A requirement that proprietors of public houses serve all comers existed in English law as early as 1450, Mr. MOORHEAD reports, citing a decision in the reign of King Henry VII.

He also calls attention to a section in Blackstone's Commentaries setting forth that "if an innkeeper or other victualler hangs out a sign and opens his house for travelers, it is an implied engagement to entertain all persons who travel that way * * * and an action will lie against him for damages if he, without good reason, refuses to admit a traveler."

Most American States adopted this as common law which still is in at least technical effect in some of the Southern States, though others have repealed it.

Reaffirmation, which is what the civil rights section on accommodations proposes, thus would recognize a traditional courtesy. This, in our opinion, is a key section of the bill. It should be passed.

Mr. TOLL. Mr. Chairman, the House Judiciary Committee, on which I serve, finally last November 20 reported out the compromise civil rights bill, which had been worked on for over 7 months.

This bill is not limited to one group of people. It has provisions which are very beneficial to all the people of our country.

One provision requires an educational survey on lack of opportunity due to race, color, religion, or national origin. The Attorney General is authorized to institute or intervene in cases involving denial of rights to full use of any facility owned, operated, or managed by public authority, where parties are unable to pursue legal remedy.

In connection with Federal aid, the administration bill contained a declaration that no law providing Federal assistance by grant, contract, loan, insurance, guaranty, or otherwise, shall require such assistance to be furnished in circumstances in which persons are discriminated against because of race, color, religion, or national origin. The compromise bill contains a declaration that all persons shall have the right to participate free from discrimination in all programs and activities receiving Federal financial aid.

The bill contains a section providing for the establishment of an Equal Employment Opportunity Commission which is authorized to initiate or receive charges, conduct investigations, seek voluntary solutions in cases where there is discrimination because of race, color, religion, or national origin. In the event of failure to secure voluntary solution, the Commission is authorized to file a civil action for enforcement in a Federal district court.

The coverage is limited to employment under Federal contract and Federal employment. It applies to most employers of 25 or more employees—100 for the first year, 50 for the second year—and most unions of 25 or more members—100 for the first year, 50 for the second year—and by employment agencies—including State employment agencies assisted by USES—supplying employers covered under this bill.

This is really a fair employment practice section and 23 States, including Pennsylvania, already have FEPC laws. Now an advancement has been made in this bill with the proposal to establish a Federal Fair Employment Practices Commission.

The bill also contains important sections on voting rights in Federal elections; public accommodations—Pennsylvania already has a law on this subject; Civil Rights Commission; and the civil rights protection in which the Attorney General is authorized to intervene in private action to prevent denial of equal protection of law on account of race, color, religion, or national origin.

I very much hope that the Congress will act favorably on this measure.

Mr. CELLER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. KEOGH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for 4 years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes had come to no resolution thereon.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include various letters, documents, and material, and I likewise ask unanimous consent that all Members have the right to extend their remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH THE CALL OF THE CONSENT CALENDAR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar on Monday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH THE CALL OF THE PRIVATE CALENDAR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar on Tuesday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM FOR SATURDAY, FEBRUARY 1, AND FOR THE WEEK OF FEBRUARY 3, 1964

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. STAFFORD. Mr. Speaker, I ask for this time to inquire of the distinguished majority leader, the gentleman from Oklahoma [Mr. ALBERT], concerning the program for tomorrow and next week, if he can tell us.

Mr. ALBERT. Mr. Speaker, if the gentleman will yield, the program for the House of Representatives for the week of February 3, Monday, and the balance of the week is as follows: There are no suspensions. H.R. 7152, the Civil Rights Act, will be the sole order of business, except, of course, that conference reports may be brought up at any time and any further program may be announced later.

Mr. STAFFORD. Mr. Speaker, will the majority leader tell us what the program might be for tomorrow?

Mr. ALBERT. For tomorrow we will continue the consideration of the Civil Rights Act, and we will come in at 12 o'clock noon.

UNEMPLOYMENT AND ITS CLOSE RELATIONSHIP TO OVERTIME PAY

Mr. O'HARA of Michigan. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. O'HARA of Michigan. Mr. Speaker, yesterday President Johnson sent to the Congress an important proposal on unemployment by emphasizing its close relationship to overtime pay in American industries. The President called our attention properly and forcefully, to the fact that 28 percent of the employees in industries presently covered by maximum hour provisions of the Fair Labor Standards Act work beyond the normal 40-hour week. The Department of Labor gives us even more dramatic figures in pointing out that in manufacturing industries alone employees worked some 35 million hours of overtime in 1963. When that number of hours is translated into jobs, we find that 919,000 of our unemployed might have full-time jobs.

Certainly, Mr. Speaker, these figures and others available at the Department of Labor make it clear that there is much to be gained in attacking joblessness in the United States by reducing excessive overtime in a number of industries. We cannot leave millions of American workers standing by idly while others regularly work 44, 46, 50, or even more hours every week.

The time has come for effective action on the overtime problem, and it is my pleasure to join with my distinguished colleague from Michigan, Senator McNAMARA, in introducing the Overtime Penalty Pay Act of 1964. This administration proposal represents a responsible approach to the problem of unemployment, and I am confident that this important legislation will win the approval of most Members of Congress.

Under unanimous consent, I include the explanatory statement of this proposal, followed by the text of the bill itself, at this point in the RECORD:

EXPLANATORY STATEMENT OF A BILL TO INCREASE EMPLOYMENT BY PROVIDING A HIGHER PENALTY RATE FOR OVERTIME WORK

The draft bill establishes industry committee procedures under which double-time compensation would have to be paid for overtime work. These procedures would extend to employees who were covered by the provisions of the Fair Labor Standards Act prior to the 1961 amendments. The work period to which the double-time standard applies could be longer than a workweek; however, payment of double time could not be required unless the hours of work exceeded 40 in a week.

The time-and-one-half overtime rate would continue to apply to work in excess of 40 hours in a workweek but less than the maximum hours prescribed through the industry committee procedures. It would also apply in periods of extraordinary emergency, including a national emergency, or where other compelling reasons exist.

The maximum hours in a work period for a particular industry would be specified in an order of the Secretary of Labor based on the recommendations of a special tripartite industry committee. The order would be issued only after the Secretary finds (after notice and hearing) that regular and substantial overtime employment exists in the industry and such overtime limitations will increase opportunities for employment in the industry without unduly increasing costs.

INDUSTRY COMMITTEE PROCEDURES

The bill authorizes the Secretary of Labor to appoint a special industry committee to recommend the maximum hours in a work period for the industry. The committee would be composed of an equal number of persons representing the public, employees in the industry, and employers in the industry. Any decision of the committee would require a majority vote of its members. If the members cannot agree, the public member or members would report this fact to the Secretary.

To assist in the committee's deliberations, the Secretary would furnish the committee with data pertinent to the inquiry. The committee is also authorized to summon witnesses or call upon the Secretary for additional information.

After the committee completed its study of conditions in the industry, it would recommend the hours of work during a work period (not less than 40 in a workweek) which it determines will have the effect of reducing work hours and increasing employment in the industry without excessive costs and with due regard to economic and competitive factors including costs, prices, and dislocations in the industry.

When the special industry committee has filed its report with the Secretary of Labor, he would—after notice and hearing—issue an order carrying out the committee's recommendations, if he finds that (1) the recommendations are in accordance with law, (2) they are supported by evidence adduced at the hearing, and (3) taking into account those factors the industry committee is required to consider, they will carry out the purposes for which the recommendations are made. Otherwise he would disapprove the recommendations. If he disapproves, the Secretary may again refer the matter to the committee or to another industry committee. The Secretary may also reestablish or reconvene a committee in order to redetermine and make new recommendations concerning the maximum hours standard for an industry.

In addition, the Secretary on his own motion or on petition could convene an industry committee to reconsider an existing order for that industry taking into consideration the same factors required in issuing the existing order.

NEED FOR THE LEGISLATION

The 40-hour workweek has become the standard in many industries. However, workweeks considerably in excess of 40 hours are widespread throughout the economy. They are not concentrated in any region, group of industries, or size-of-establishment group.

In industries generally subject to the FLSA maximum hour provisions, which account for about three-fifths of all nonsupervisory workers, the proportion of employees working over 40 hours a week is 28 percent. In manufacturing industries alone some 35 million hours of overtime were worked in 1963. This is the equivalent of 919,000 full-time jobs.

In those industries and occupations in which sufficient skilled labor is available and where the average workweek can be reduced without unduly increasing costs, employment of some workers for excessively long hours while others remain unemployed cannot be defended. Tripartite committees, familiar with the work of those industries, could determine whether the required skills were available among the unemployed in the locality, whether a sufficient number of skilled workers could be obtained from other localities and the costs involved in replacing overtime hours with new employees. They could also determine the feasibility of training new workers, and the nature and extent of the required training.

Thus, on an industry-by-industry basis, guided by informed committees, a reduction in the amount of overtime by the means provided in this bill would serve to reduce unemployment.

H.R. 9802

A bill to increase employment by providing a higher penalty rate for overtime work

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Overtime Penalty Pay Act of 1964."

SEC. 2. Subsection (a) of section 7 of the Fair Labor Standards Act of 1938, as amended, is amended by striking the word "and" following the semicolon in paragraph (1) thereof and inserting in lieu thereof the following:

"and, whenever such an employee is employed in any industry for which an order has been issued pursuant to paragraph (3) of this subsection, not less than the rate of compensation provided in paragraph (3) shall be required under the provisions of this section for any such overtime employment which is in excess of a maximum number of hours specified for a prescribed period in such order; and".

SEC. 3. Subsection (a) of section 7 of this Act is further amended by adding at the end thereof the following new paragraph (3):

"(3)(A) The Secretary may by order prescribe for any industry, with respect to overtime employment therein of employees to whom the maximum workweek provided in paragraph (1) of this subsection is applicable, maximum hours within a specified period (not less than 40 hours per week for the period) beyond which any overtime employment of such an employee shall be compensated by the employer at the overtime rate specified in this paragraph. Such overtime rate of pay shall not be less than two times, instead of one and one-half times, the nonovertime rate on which such employee's overtime compensation under this section is authorized to be computed, except that the overtime rate otherwise applicable may be paid notwithstanding such order if the overtime employment in excess of the hours specified in the order is required only by reason of a period of extraordinary emergency or unusually compelling need (as such terms are defined and delimited from time to time by regulation of the Secretary). The procedures and standards set forth in the following subparagraphs shall be followed by the Secretary in making any such order.

"(B) Upon petition or upon his own motion the Secretary may appoint and convene a tripartite industry committee for any industry in which it is alleged or he believes that substantial and persistent overtime employment exists and that the payment of overtime compensation as specified in subparagraph (A) would increase employment opportunities in the industry without excessive costs. The provisions of subsections (b) and (c) of section 5 shall apply whenever such a committee is appointed.

"(C) The Secretary shall conduct a preliminary survey to estimate the extent and amount of regular and substantial overtime in the various industries subject to the Act and shall submit to a tripartite industry committee appointed for any such industry any relevant information therefrom and a study of the industry together with statistical information and such data as he may have available on matters referred to it, with particular emphasis on the potential impact on costs and employment of the payment of overtime compensation as specified in subparagraph (A). The Secretary shall cause to be brought before the committee in connection with such matters any witnesses whom he deems material. An industry committee may summon other witnesses or call upon the Secretary to furnish additional information to aid it in its deliberations.

"(D) Upon the convening of an industry committee, the Secretary shall refer to it the question of the maximum hours standard to

be established for the industry. The committee shall investigate conditions in the industry, and the committee, or any authorized subcommittee thereof, may hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under this Act. The committee shall recommend to the Secretary the maximum hours standard in a prescribed work period (not less than 40 hours in a workweek) which it determines will have the effect of translating without excessive costs regular and substantial overtime in the industry into increased employment in such industry. In making this determination the committee shall give due consideration to economic and competitive factors, including whether such recommendation minimizes changes in costs and prices and minimizes dislocations in the industry.

"(E) The industry committee for any industry shall recommend such reasonable classifications within any industry as it determines to be necessary for the purpose of fixing for such classification within such industry a maximum hours standard in accordance with the provisions of subparagraph (D) above.

"(F) The industry committee shall file with the Secretary a report containing its recommendations with respect to the matters referred to it. If a majority cannot agree on a recommendation, the public member or members shall report that fact to the Secretary. Upon the filing of the report, the Secretary, after notice and hearing and based upon the record as a whole, shall by order approve and carry into effect the recommendations contained in such report, if he finds that (i) regular and substantial overtime employment exists in the industry and the recommended overtime limitations will increase employment opportunities therein without unduly increasing costs, (ii) the recommendations are made in accordance with law and are supported by the evidence adduced at the hearing, and (iii) taking into consideration the same factors as are required to be considered by the special industry committee, the recommendations will carry out the purposes of this paragraph; otherwise he shall disapprove such recommendations. If he disapproves such recommendations, or if a majority of the committee members have not agreed on a recommendation, the Secretary may again refer the matter to such committee or to another industry committee for such industry (which he may appoint for such purpose), for further consideration and recommendations. After maximum hours standards have been established for an industry, the Secretary may reconvene or establish a committee for such industry for the purpose of making new recommendations in accordance with the procedures and provisions of this paragraph.

"(G) Upon petition or upon his own motion the Secretary may appoint and convene a tripartite industry committee for or including an industry for which an order has been issued pursuant to this paragraph to reconsider such order, taking into consideration the same factors required by this paragraph which shall apply to the appointment, and operation of such industry committee, and to the review of its recommendation by the Secretary."

THE LATE HONORABLE A. W. LAFFERTY

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to extend my remarks at this point and include an article from the Oregon Voter.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I was greatly saddened when I heard of the death, 2 weeks ago, of one of Oregon's best known senior citizens and a former Member of this body, Mr. A. W. Lafferty. I know that colleagues of his still in this body, and particularly the gentleman from Missouri [Mr. CANNON], will share my sense of loss at his passing.

Mr. Lafferty carved his own niche deep in the history of the State of Oregon. He not only served with distinction in this room but he conducted selflessly for many years complex litigation reaching to the Supreme Court of the United States. His successful handling of this case involving the O. & C. lands was of great service to the area I represent.

In his later years he retained his dogged determination and his finely honed reasoning ability and carried on single handed, a fight to expunge from the court records a finding of his own mental incapacity made without due process of law. I personally saw and heard him rise all alone against the hierarchy of the Oregon State Bar Association just a few years ago and carry his point by the very force of his arguments and his personality.

Only occasionally does an A. W. Lafferty come along. Oregon is the richer for his having passed through.

The Oregon Voter has published a résumé of the life of Mr. Lafferty. Under unanimous consent, I include the article following my remarks:

A. W. LAFFERTY'S WORK—IMPORTANT IN OREGON HISTORY; HIS O. & C. LAND FIGHT AND FORESIGHT HIS MONUMENT

A. W. Lafferty, who served as an Oregon Member of Congress a half century ago, dedicated a lifetime to the Oregon and California (O. & C.) land-grant problems and in Oregon Voter's opinion history will give him an enduring place for that work. His death in Portland at St. Vincent Hospital January 15 followed a light stroke which kept him, regrettably, unable to communicate with friends in his final days. He was approaching 89 years; born at Farber in Audrian County, Mo., June 10, 1875. He had outlived many who knew him as a vigorous young attorney, colorful in his political sparring, classic in historical knowledge, dogged in his determination to return O. & C. lands to Oregon in full title rather than have so vast an Oregon domain be a fief of the Federal bureaus, subject to the whims of a changing Congress and the pressures such potentially rich natural resources invited.

It is saddening that under the circumstances no funeral services were held in Portland where in recent years he had returned to make his last stand for the cause to which he had devoted much of his active life. His body was sent by J. P. Finley & Son to his birthplace for burial as he wished. He had reestablished his home there in recent years to be near his sister Mrs. Rose Robinson. His brother, Rolla Lafferty, retired from the U.S. Air Force staff, had come from Spokane to conclude his affairs. Attorney Don Walker of Portland has in hand the final legal problems that had frustrated Mr. Lafferty in his final years, when the Federal authorities attached $50,000 of his bank account pending adjustment of his tax liability on his share of a considerable fee ($150,000) he finally won for his O. & C. land work over a long period of years. The Oregon State Tax Commission also had a claim but had not attached his remaining funds. He was not in immediate need, for, with foresight he had kept possession of funds not attached. But the tax worry was heavy in his final days, for he wanted the United States to have its due, while not denying him justice.

The Portland newspapers with fine understanding reviewed Mr. Lafferty's career in some detail. It would have assuaged his feeling of frustration considerably, we think, could he have known such recognition was to be given him in death. He had a devoted attachment to sound law and to history and did much to have Col. Edward D. Baker, Oregon's early U.S. Senator—killed in a minor battle of the Civil War—recognized in the State he served briefly, but with oratorical greatness.

Mr. Lafferty in his later years, when he was capping his victories in the long O. & C. lands effort (which have been historically reviewed in Oregon Voter on several occasions) had developed into a legal figure of the old, oratorical school. In 1955 in the midst of one of his last court battles he was stricken with exhaustion and nervous collapse, without his awareness we sent him to the St. Elizabeths mental hospital in Washington, D.C.; without his knowledge then was adjudged of unsound mind; sent to the Oregon State Hospital from which he was unconditionally released after 6 months. To his great credit with a legal precedent resulting, Mr. Lafferty fought successfully in the courts at Washington, D.C., to have expunged from the court record all reference to any mental illness, winning an unprecedented decree. (Oregon Voter, Mar. 26, 1960.)

Biographically, briefly, Mr. Lafferty studied law at University of Missouri in 1895–96; admitted to the bar in 1896; came to Portland in 1906; started his long O. & C. legal career in 1907 with a suit to have the Southern Pacific (successor to the O. & C. RR.) live up to the terms of the original grant. He had been, in 1905 in the Land Office of the U.S. Department of the Interior and had knowledge of the situation. He successfully carried the action through the Federal courts and twice to the U.S. Supreme Court. In 1910 and again in 1912 he was elected to Congress as a Republican but in 1914 was defeated by C. N. McArthur. In subsequent years in the fifties and sixties Mr. Lafferty on several occasions sought nomination and election to Congress to finish his O. & C. fight, but was unsuccessful.

When history is written, regardless of the contributions of others including the late Senator Chamberlain, there should be little doubt that the 18 O. & C. counties in effect today receive 75 percent of the timber and other income from O. & C. lands partly, at least, because of Mr. Lafferty's work, instead of 25 percent now received from national forest lands. The O. & C. lands are a vast domain, some 2,500,000 acres over an area 60 miles wide and 300 miles long. For more than a decade these counties have been receiving from $12 to $20 million annually (over $111 million to date) and potentially in the present status, the O. & C. lands are a billion-dollar asset, and in time more, to these Oregon counties. Mr. Lafferty's goal, which he said was legally possible, was to have the title of the lands returned to Oregon so that the returns from them would go into the State treasury for the entire State. "Revested" to the U.S. Government, which had once given them to the railroad for Oregon's development, denied Oregon its full right in Mr. Lafferty's opinion. The history is long, involved, at times politically complex, and has often been reviewed in these columns and elsewhere. But for Mr. Lafferty, the fight for Oregon's rights and the returns now established, might never have been started. He had the vision; the legal know-how; the dogged determination; the political astuteness and the determination that accomplished so much, that when history is written, regardless of the credit due to some others, the Oregon status today in the O. & C. lands equity is a monument to Mr. Lafferty.

There was an interesting interim in Mr. Lafferty's life not of consequence to Oregon. Immediately after World War I he took the legal task which some eminent lawyers eschewed, and represented small German businessmen in reclaiming some of their equities in America seized by the Alien Property Custodian. He prospered, and practiced from New York where he owned a Park Avenue cooperative apartment; later bought the historic Calvert mansion in Baltimore, Md., which he sold at cost to the Maryland Historical Society for preservation.

Mr. Lafferty never married.

Eminent men in the courts and Congress, the legislatures and the law offices communicated with him. He cherished the Oregon State bar certificate honoring him as a 50-year member. In his leisure hours he could be the most entertaining of men, with classical reference, legal anecdote and oratorical expansion; a veritable Don Quixote in victory over real and imagined enemies. But his work plumbs deep in Oregon history and he is destined to a place in it.

FOREIGN POLICY AND VIETNAM

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LINDSAY. Mr. Speaker, I do not suppose I should have been surprised to have been told by the administration one day this week that the military situation in Vietnam remains grave, and then to hear the next day that there has been a very noticeable improvement in that war of late.

Defense Secretary Robert McNamara told the House Armed Services Committee Monday that this country must be ready to take all necessary measures to prevent a Communist victory in Vietnam. That is strong medicine.

But Tuesday, he told reporters that even though the picture in that embattled nation is not bright, he was encouraged by the progress of the last 2 weeks. Mr. McNamara reportedly believed that this Nation's press had written some overly pessimistic stories about his remarks to the Congress Monday.

Is Vietnam's war against the Vietcong improving or deteriorating? Will the United States be able to complete the major part of its military task in Vietnam by the end of 1965, as the White House said last October? Or must this country prepare to step even deeper into that war, as was implied in Mr. McNamara's first statement this week?

How can we, as Congressmen and citizens, answer these questions on the basis of Mr. McNamara's statements this week—his gloomy portrayal one day, then his more optimistic words the next? My constituents expect me to be informed. And they expect the press to give them an accurate reporting job. But I cannot be informed, and the press cannot report and analyze in the field of foreign affairs if our Defense Secretary and our Government insist on being inconsistent. I would like to voice my preference, too, for having the position of U.S. foreign policy stated by the President or the State Department rather than the Pentagon.

I cannot forget a statement made to a newsman during the Cuban crisis a little more than a year ago by Arthur Sylvester, an Assistant Defense Secretary for Public Affairs: News generated by actions of the Government as to content and timing are part of the arsenal of weaponry that a President has in the application of military force and related forces to the solution of political problems or to the application of international pressures.

He added, the results, in my opinion justified the means we used.

The public must rely on two sources for news about the struggle in Vietnam, and about U.S. involvement in it: reports from newsmen in that country, and U.S. Government statements.

Newsmen in that country can only indicate from their observations what our policies might be. And, I might note that our Government has criticized some newsmen for their reports on the situation.

Thus, it is left to the administration to make clear what its policies are, and to substantiate them. The people have not given the administration authority to write and shape the news to suit its own ends.

Yet, Mr. McNamara's statements this week have left us hanging. We cannot tell from the information he has given us whether we may have to put more effort into the fight with the Vietcong. He hints at this, but then he says recent progress has been "encouraging."

In fairness to Mr. McNamara, he may have, indeed, felt that his Monday remarks were misinterpreted in some news stories. And he may have felt the need to clarify them Tuesday.

But, as Mr. James Reston pointed out in his column Wednesday in the New York Times, Mr. McNamara leaves us in doubt as to whether the Johnson administration is preparing to pull out of Vietnam or step up the pace of the war.

Why should we be left in doubt?

Mr. Reston's column Wednesday seemed to me to be a very fair, intelligent analysis of Mr. McNamara's statements this week. I am inserting it with these remarks, and I urge my colleagues to consider its implications:

A MYSTIFYING CLARIFICATION FROM MCNAMARA

(By James Reston)

WASHINGTON, January 28.—The first casualty in every war is truth, and the war in Vietnam has been no exception. Only now is the Pentagon confirming the gloomy newspaper reports it was denying last autumn, but its official statements are still so confusing that nobody can quite make out what the official view of the war actually is.

Secretary of Defense McNamara, for example, said today at a news conference that he was "encouraged by the progress of the last 2 weeks."

Yesterday, however, Mr. McNamara told the House Armed Services Committee that the situation in Vietnam continues grave and I must report that they [the Communists] have made considerable progress since the coup against the Diem Government last November.

These two statements are not necessarily contradictory, but the rest of Secretary McNamara's written statement to the committee not only illustrates the change in the official line since last fall, but leaves doubt about whether the Johnson administration is preparing to pull out of Vietnam or step up the pace of the war.

THE OFFICIAL DENIALS

Last fall the Kennedy administration was both trying to bring down the Diem government and complaining about reports from newspaper correspondents there on its efforts to bring that government down.

The official complaint then was that the reporters, particularly David Halberstam, of the New York Times, and Neil Sheehan, of United Press International, were concentrating on the political events in the capital of Saigon and ignoring the fact that the war was going well out in the country.

Yesterday, in contrast, Secretary McNamara said "the Vietcong [Communists] was quick to take advantage of the growing opposition to the Diem government and the period of uncertainty after its overthrow. Vietcong activities were already increasing in September and continued to increase at an accelerated rate in October and November, particularly in the delta area. And I must report that they have made considerable progress since the coup."

Yet, despite this analysis, the White House announced last October 2, after Secretary McNamara's return from Saigon: "The military program in South Vietnam has made progress and is sound in principle, though improvements are being energetically sought."

The White House statement added that 1,000 U.S. military personnel were being withdrawn by the end of 1963 and that "the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of U.S. training personnel."

Yesterday, however, McNamara, while defending this statement, both hoped that the Vietnamese could win the war by themselves and indicated that the United States might have to intervene with "all necessary measures within our capability."

"We hope that," he said, "with our full support, the new government can take hold and eventually suppress the Vietcong insurrection. The dry season will give us a firmer basis for this judgment. However, the survival of an independent government in South Vietnam is so important to the security of all of southeast Asia and to the free world that I can conceive of no alternative other than to take all necessary measures within our capability to prevent a Communist victory."

It may be that so many official statements on Vietnam have been so misleading in the past that observers here are seeing contradictions in McNamara's testimony that don't exist. But if the situation is "grave" and the Secretary of Defense can talk openly about even the possibility of "taking all necessary measures within our capability," then the time has come for a much wider inquiry into the Government's intentions.

If the situation is "grave," why are troops being withdrawn? If the Secretary of Defense is "encouraged by the progress of the last 2 weeks," why is he talking about "taking all measures within our capability"?

WHERE'S JOHNSON?

This would amount to a wholly new policy. Gradually, the United States has got sucked deeper and deeper into the bog in South Vietnam. First we were "training" the Vietnamese, then flying them into combat, usually without any clear knowledge among the American people about what was going on.

Our official objective there is very much like our objective in Korea: not to conquer the whole country, but to protect the independence of South Vietnam. So far as can be ascertained here, however, no effort has been made to negotiate a settlement before talking publicly about a wider war.

President Johnson has said nothing about this, and neither has Secretary of State Rusk, but it would be nice to know if any new intervention is now being considered.

I am also inserting an editorial that appeared yesterday in the Washington Post entitled "Retreat From Candor" the last sentence of which says:

Isn't it time for the administration to show more faith in the intelligence and good sense of the American people?

RETREAT FROM CANDOR

On Monday, Secretary of Defense McNamara told the House Armed Services Committee that the situation in South Vietnam remains grave and added: "I must report that they (the Communists) have made considerable progress since the coup." But on Tuesday, at a press conference, Mr. McNamara seemed to nullify his earlier comments by stressing that there has been a very noticeable improvement in the conduct of the war and that he was "encouraged by the progress of the last 2 weeks."

Verbal ambiguity is an old story on Vietnam. Americans, it seems, must be told that the war in that country is hard and difficult—but that it is getting better. This is an old story; the French generals in Indo-China made comments that sound very much the same.

As late as 1960, it was insisted that there was no guerrilla problem in South Vietnam, even though village chiefs were being slaughtered daily. A year ago, the Diem regime was praised as the shining hope of freedom and the strategic hamlet program was extolled as a cure-all for the guerrilla disease. Now we know that the Diem regime was widely detested, and that Mr. McNamara concedes that in the vital delta area the hamlet program was overextended.

Throughout, there is the impression that the administration is reluctant to tell the American people the undiluted truth—that the Vietnam war is being fought on terrain favorable to the guerrillas and that the outlook for clear-cut military victory is bleak. Thus every pessimistic report must be followed, as Mr. McNamara demonstrated with his Tuesday remarks, by optimistic exhortations.

Isn't it time for the administration to show more faith in the intelligence and good sense of the American people?

REDUCING THE TAX ON LONG-TERM CAPITAL GAINS

Mr. HALL. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HALL. Mr. Speaker, today I have introduced a bill which would reduce the tax on long-term capital gains realized by individuals who have to sell their property in order to make room for Federal projects.

The bill would amend the Internal Revenue Code by providing special rules for property condemned by governmental units, or faced with the threat of condemnation.

The problem has been called to my attention by persons living in the area of the Stockton Reservoir in southwest Missouri. Many farmers who are forced to sell their property are finding it impossible to relocate without considerable additional cost above any profit they may realize on the sale of their property to Government.

Under the present law, a farmer who, under the threat of condemnation, sells his $10,000 home for $11,000, makes a profit of $1,000. Section 1202 of the Internal Revenue Code now permits him to deduct 50 percent or $500 and the remaining $500 is taxed as a capital gain. If he is in the minimum 20-percent bracket, his tax liability is $100.

Under my bill, 75 percent of the profit, or $750 in this instance, would be excluded. Thus his tax would be only $50 or half of what it would be under the present system. The provisions of the bill would, of course, apply to all instances where property is sold as a result of the threat or imminence of condemnation under the right of eminent domain.

I believe that property sold under this kind of pressure should be treated entirely different than when the seller is willing and not under any compulsion to sell. At the Stockton Reservoir, for example, many farmers are giving up not only their homes but their means of earning a living. This consideration should be paramount to any momentary profit they realize from this kind of forced sale.

UNITED STATES SHOULD NOT SURRENDER ITS SOVEREIGNTY

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. HARSHA] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. HARSHA. Mr. Speaker, we are faced with many grave problems with the numerous Communist-inspired troublespots around the globe and, undoubtedly, one of the most painful at the moment is the Panamanian Government's demands.

The country of Panama owes its entire existence to the United States and we have continually given friendship and economic support to it.

We have already conceded far too much to the Communists by letting them get a foothold in the Western Hemisphere and I am, therefore, introducing a concurrent resolution in the House of Representatives expressing the sense of Congress that the United States shall not surrender its sovereignty or control over the Canal Zone or the Panama Canal.

The grant by Panama to the United States of exclusive sovereignty over the Canal Zone in perpetuity for construction of the Canal and its perpetual maintenance, operation, and protection was an absolute, indispensable condition precedent to the great task undertaken by the United States, and the United States has fully performed its responsibilities under the treaty of 1903. Therefore, there is nothing to negotiate, and this country should stand firm.

This Nation has paid Panama the full indemnity and annuities agreed upon by the two nations, has completely carried out the terms of the treaty, and stands on firm moral and legal footing in this dispute, and under no circumstances should it yield to the Communist-inspired demands of Panama.

QUESTIONS ON ADMINISTRATION'S ECONOMIC PROGRAM

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Missouri [Mr. CURTIS] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. CURTIS. Mr. Speaker, there are a number of important questions which should be raised by those who are concerned about the analysis and conclusions upon which the administration's economic program is based. The minority members of the Joint Economic Committee have prepared a number of questions which they are submitting to the Council of Economic Advisers for reply. When received, the answers will be included in the printed record of the committee's 1964 hearings on the President's annual economic report. I think it is important to call these questions to the attention of all who are interested in our economic situation since they may suggest fruitful lines for further investigation and inquiry.

Under unanimous consent previously granted I insert the list of questions at this point in the RECORD:

SUGGESTED QUESTIONS FOR THE COUNCIL OF ECONOMIC ADVISERS FROM THE MINORITY MEMBERS, JOINT ECONOMIC COMMITTEE, ANNUAL HEARINGS ON THE PRESIDENT'S ECONOMIC REPORT

1. The administration has said the fiscal stimulus which the economy will receive from the Federal Government this year will be three times greater than the stimulus received in any of the 3 previous years. In the face of a vigorous expansion that is continuing without signs of abatement, how do you justify such a policy? Couldn't it lead to an inflationary boom in 1964 and a bust in a later year?

2. The Council said in its 1962 report that inflation is more difficult to avoid the smaller the full employment budget surplus. Since you expect to wipe out the full employment budget surplus this year, doesn't that increase the chances of inflation?

3. The request for reducing the withholding rate immediately from 18 percent to 14 percent moves some of the stimulus from the second stage of the tax cut from 1965 to 1964. The drop in the withholding rate to 14 percent would reduce lump-sum refunds next spring to individuals by about $2 billion. How is this likely to affect consumer spending and the general economy at that time?

4. The budget also shows that individual tax collections next year (other than that withheld) will increase by $1.8 billion, or to $16.7 billion from the $14.6 billion average of the previous 3 years. Presumably this will be a result of the immediate application of the 14-percent withholding rate? Won't this be a restrictive factor on the economy next spring?

5. Federal purchases of goods and services are expected to increase in 1964. By how much? Do you consider this a stimulative factor? What will be the trend of such

spending in calendar 1965? Do you consider this stimulative or restrictive?

6. The administration argues that inflation is not likely to occur because there are idle resources of men and equipment available for absorption in a new wave of expansion. Do you have any estimate of how much of our excess capacity is actually obsolete or which is capacity to produce goods no longer in demand? Is it not likely that too sharp an expansion could bring into operation inefficient, high-cost plants which would tend to put pressure on prices?

7. Do you have a breakdown of industries which are operating at or near their preferred operating rate? Is it not true that too sharp an expansion would cause price pressures in these industries which would tend to "spill over" into other sectors of the economy?

8. The unemployment rate in December for all married men was 3.4 percent. It was 4.4 percent for all men over 20. The rate for women over 20 was 5.2 percent, and for teenagers, it was 14.8 percent. Is it possible that a new wave of expansion would increase demand for married men, for whom the unemployment rate is already far below the administration's interim full employment target of 4 percent? If this occurred, would it not be likely to create serious labor and skill bottlenecks and put upward pressure on wages?

9. News stories indicate that organized labor plans to press for increased wages this year in contrast to its efforts of recent years to increase fringe benefits and improve job security. Does this indicate to you that labor feels it is in a better bargaining position because of a tighter labor market for experienced workers in 1964?

10. What would be the administration's policy in 1965 should the sharp expansion which it seeks result in a leveling off or a decline in the high level of economic activity attained in 1964? Do you think you would hold to the 1965 budget estimates or would spending be likely to increase substantially?

11. Anything which causes productivity to increase also causes our economic potential to increase and makes it that much harder to close the so-called "gap" between actual and potential production. While it is not an argument against the tax cut, doesn't the tax cut have this effect, since it is expected to increase our productivity?

12. The economic report frequently refers to the large recent increases in the absolute level of corporate profits. In order to be meaningful, shouldn't this be related to stockholders' equity or to the return on the invested dollar? Looked at in this way, aren't corporate profits still considerably below their pre-1957 level?

13. Please describe the "early warning system" being set up in the agencies to warn of impending price increases. How do you intend to differentiate between increases that are inflationary and those that are not? In what fashion will the President bring to the attention of the public increases which he considers inflationary? How will you avoid a repetition of the disastrous reaction to the steel pricing crisis in 1962? Since price changes serve a vital economic function of allocating resources, how will you avoid the harmful effects which would follow from any tendency to freeze price relationships?

14. The administration plans to ask for an extension of the coverage of the minimum wage and overtime provisions of the Fair Labor Standards Act. Do you have any studies of whether extension of minimum wage might tend to reduce job opportunities for teenagers and other unskilled or inexperienced personnel? In the long run might there be a tendency to introduce labor-saving machinery or procedures as a result of the minimum wage?

15. If the minimum wage and overtime provisions of the Fair Labor Standards Act are extended to new workers, how do you intend to make certain that the increases in labor costs do not exceed the administration's own noninflationary guidelines?

16. While income for the rest of the Nation was increasing, total agricultural income between 1962 and 1963 declined from $17.6 to $17.3 billion. In December the seasonally adjusted annual rate was down to $16.8 billion. How does the administration intend to stop the slide of farm income?

17. A sharp change has taken place in the proportion of GNP increase contributed by the Federal Government and the private sector in the three most recent recoveries. In the current recovery, 11 percent of the GNP increase came from Federal Government purchases, compared to declines of 10.9 percent and 1.2 percent in the two previous recoveries. At the same time, personal consumption expenditures accounted for only 48.9 percent of the GNP increase in this recovery, compared to 70.5 percent and 60 percent in the two previous recoveries. Explain the significance of the shift.

18. Total Federal expenditures increased 20 percent in the current recovery. How does this compare with increases in previous recoveries? Has this recovery been more dependent than others on increases in Federal spending? What are the implications of this?

19. It has often been said that Federal employment will increase as the population increases in order to meet growing demands for Government services. Isn't it true, however, that productivity of Government workers is increasing and that this largely offsets the need for the total to grow as the population grows? Do you have any estimate for the annual increase in the productivity of Government workers?

20. The budget document says that the annual net outflow of dollars overseas as a result of Federal Government programs is estimated to drop by $800 million between 1963 and 1964. What is the estimated change between 1964 and 1965?

21. The Council's report says that the administration will call public attention to decisions that seriously overstep noninflationary price and wage standards. How do you decide what is a noninflationary price? By the level of profits in a particular industry or company? What is the standard that you use?

22. The budget document comes out after the economic report. This particular economic report seems to point up the difficulties of describing economic policy without specifically referring to the budget figures. Wouldn't it be preferable if the budget document were released first, thus permitting the economic report to discuss fiscal policy with specific reference to the budget figures?

23. The Council of Economic Advisers each year issues a forecast of gross national product for the year. Is there a tendency for this forecast to become a target? Does Government fiscal and monetary policy, in other words, tend to be shaped in such a way that the Council's forecast will be realized?

24. Dr. Heller before the Senate Finance Committee on November 12, 1963, said: "I have a strong conviction, however, that if, on the one hand, we stimulate the economy by increasing private demand and, on the other hand, we cancel that out by reducing public demand, the total effect would be self-defeating because we would be canceling out with one action what we were undertaking with the other."

Judging by your report this year, you no longer have this opinion. Would you care to explain how you reconcile these positions?

VIETNAM CRISIS

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts [Mr. MORSE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. MORSE. Mr. Speaker, the overthrow by a military junta of the military junta which overthrew the Diem regime in South Vietnam dramatizes once again the deteriorating situation in southeast Asia and points up more sharply the need for hard data about the progress of the war.

Whether out of confusion or design the administration has issued this week alone no less than three conflicting accounts of the Vietnam crisis. On Monday the Secretary of Defense reported gloomily to the House Armed Services Committee that the Vietcong Communist guerrillas have made considerable progress since the fall of the Diem regime. On Tuesday, the Secretary told a press conference that there has been a very noticeable improvement in the operations.

At this point in the review, the Washington Post called the administration statements a retreat from candor and called for an end to the verbal ambiguity on Vietnam.

Not to be deterred, however, the Secretary told the Armed Services Committee Wednesday:

> The new Government * * * has considerably more popular support than its predecessor and the military revolutionary committee is beginning to take action to intensify military operations and to improve civil administration.

At that very moment, the military revolutionary committee was being ousted by military dissidents who accused the ruling generals of negotiating with France to neutralize Vietnam. I am confused by this turn of events and I think the American people are also confused. As the Washington Post suggested in its editorial:

> Isn't it time for the administration to show more faith in the intelligence and good sense of the American people?

We know that some 15,500 American military troops and advisors and technicians are in South Vietnam. Beyond that we know little. The highly touted strategic hamlet defense system is generally agreed to be in shambles. The Vietcong have made military advances in recent weeks and have killed and wounded more men and captured more weapons than the anti-Communist forces.

James Reston put the matter well this week when he wrote that the "first casualty in every war is truth" and commented that the official statements on Vietnam are "so confusing that nobody can quite make out what the official view of the war actually is." I think that the Congress and the people of the United States must be told the facts about the situation in Vietnam. If the administration, as it increasingly appears, does not know what is going on, we must be told why we do not know. With all the Americans present in the country, with a direct line from Saigon to Washington,

someone must have the facts and they should be presented clearly and objectively if the administration expects to retain support for its operations in Vietnam.

Under unanimous consent, I include the Post editorial of Wednesday, January 29, and the column of James Reston which appeared in the New York Times and the Boston Herald-Traveler of the same date in the RECORD.

[From the Washington (D.C.) Post, Jan. 29, 1964]

RETREAT FROM CANDOR

On Monday, Secretary of Defense McNamara told the House Armed Services Committee that the situation in South Vietnam remains grave and added: "I must report that they [the Communists] have made considerable progress since the coup." But on Tuesday, at a press conference, Mr. McNamara seemed to nullify his earlier comments by stressing that there "has been a very noticeable improvement" in the conduct of the war and that he was "encouraged by the progress of the last 2 weeks."

Verbal ambiguity is an old story on Vietnam. Americans, it seems, must be told that the war in that country is hard and difficult—but that it is getting better. This is an old story; the French generals in Indochina made comments that sound very much the same.

As late as 1960, it was insisted that there was no guerrilla problem in South Vietnam, even though village chiefs were being slaughtered daily. A year ago, the Diem regime was praised as the shining hope of freedom and the strategic hamlet program was extolled as a cure-all for the guerrilla disease. Now we know that the Diem regime was widely detested, and Mr. McNamara concedes that in the vital delta area the hamlet program was overextended.

Throughout, there is the impression that the administration is reluctant to tell the American people the undiluted truth—that the Vietnam war is being fought on terrain favorable to the guerrillas and that the outlook for clear-cut military victory is bleak. Thus every pessimistic report must be followed, as Mr. McNamara demonstrated with his Tuesday remarks, by optimistic exhortations.

Isn't it time for the administration to show more faith in the intelligence and good sense of the American people?

[From the Boston (Mass.) Herald-Traveler, Jan. 29, 1964]

MCNAMARA ADDS TO VIET CONFUSION

(By James Reston)

WASHINGTON.—The first casualty in every war is truth, and the war in Vietnam has been no exception. Only now is the Pentagon confirming the gloomy newspaper reports it was denying last autumn, but its official statements are still so confusing that nobody can quite make out what the official view of the war actually is.

Secretary of Defense McNamara, for example, said Tuesday at a news conference that he was encouraged by the progress of the last 2 weeks.

POLICY IN DOUBT

Monday, however, McNamara told the House Armed Services Committee that the situation in Vietnam continues grave and "I must report that they [the Communists] have made considerable progress since the coup" against the Diem government last November.

These two statements are not necessarily contradictory, but the rest of Secretary McNamara's written statement to the committee not only illustrates the change in the official line since last fall, but also leaves doubt about whether the Johnson administration is preparing to pull out of Vietnam or step up the pace of the war.

Last fall, the Kennedy administration was both trying to bring down the Diem government and complaining about reports of newspaper correspondents there on its efforts to bring that government down.

The official complaint then was that the reporters, particularly David Halberstam, of the New York Times, and Neil Sheehan, of United Press International, were concentrating on the political events in the capital of Saigon and ignoring the fact that the war was going well out in the country.

DIFFERENT TUNE

Monday, in contrast, Secretary McNamara said "the Vietcong [Communists] was quick to take advantage of the growing opposition to the Diem government and the period of uncertainty after its overthrow. Vietcong activities were already increasing in September and continued to increase at an accelerated rate in October and November, particularly in the delta area. And I must report that they have made considerable progress since the coup."

Despite this analysis, the White House announced last October 2, after Secretary McNamara's return from Saigon, "the military program in South Vietnam has made progress and is sound in principle, though improvements are being energetically sought.

The White House statement added that 1,000 U.S. military personnel were being withdrawn by the end of 1963 and that "the major part of the U.S. military task can be completed by the end of 1965, although there may be a continuing requirement for a limited number of U.S. training personnel."

WAIT DRY SEASON

Monday, however, McNamara, while defending this statement, both hoped that the Vietnamese could win the war by themselves and indicated that the United States might have to intervene with all necessary measures within our capability.

"We hope that," he said, "with our full support, the new government can take hold and eventually suppress the Vietcong insurrection. The dry season will give us a firmer basis for this judgment. However, the survival of an independent government in South Vietnam is so important to the security of all of southeast Asia and to the free world, that I can conceive of no alternative other than to take all necessary measures within our capability to prevent a Communist victory."

It may be that so many official statements on Vietnam have been so misleading in the past that observers here are seeing contradictions in McNamara's testimony that don't exist. But if the situation is grave and the Secretary of Defense can talk openly about even the possibility of taking all necessary measures within our capability, then the time has come for a much wider inquiry into the Government's intentions.

If the situation is grave why are troops being withdrawn? If the Secretary of Defense is encouraged by the progress of the last 2 weeks, why is he talking about taking all measures within our capability.

This would amount to a wholly new policy. Gradually, the United States has got sucked deeper and deeper into the bog in South Vietnam. First, we were training the Vietnamese, then flying them in combat, usually without any clear knowledge among the American people about what was going on.

President Johnson has said nothing about this, and neither has Secretary of State Rusk, but it would be nice to know if any new intervention is now being considered.

NOTHING NEW

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Iowa [Mr. HOEVEN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. HOEVEN. Mr. Speaker, President Johnson's message on agriculture is a "mish-mash" of old and rejected schemes. The President's push for the wheat certificate plan is a classic example of the bankruptcy of ideas in the Department of Agriculture. This plan has been floating around since President Calvin Coolidge vetoed it in 1926. It has been rejected by the Senate and the House in past years and was once vetoed by President Eisenhower. Some 597,776 wheat farmers emphatically said "No" to this scheme last spring. Now the President is trying to ram down farmers' throats a plan which history has proven they do not want. In pushing this wheat plan the President seems to have switched sides in his so-called war on poverty, because the people who would be hardest hit by the consumer tax features of it are low-income families.

The dairy Brannan plan proposal is also a retread of a plan which as recently as October 10, 1963, was defeated by a rollcall vote of 56 to 27 in the U.S. Senate.

His cotton plan is but another version of the often repudiated Brannan plan.

The entire message, in fact, is more significant in what it does not say, rather than in the retreads it attempts to sell to the American farmer.

It fails to mention that the parity ratio fell to 78 in 1963, a 24-year low; it fails to mention that realized net farm income in 1964 will be less than it was in 1960; it fails to mention that 475,000 farms have disappeared since 1960; and it fails to recognize the serious plight that U.S. livestock producers face from expanded imports. The President, in fact, proposes to aggravate this already serious problem by setting up a massive subsidized grazing program under the banner of cropland conversion.

I also point out that the President's budget message called for 115,376 employees in the U.S. Department of Agriculture at the end of fiscal year 1965. This means 1 bureaucrat for every 30 farms in the United States.

UNDERSTANDING ECONOMIC GROWTH

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee [Mr. BROCK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. BROCK. Mr. Speaker, early indicators point to a boom year for 1964, and all Americans can take justifiable pride in our national economy, based as it is on

the free enterprise principle. Unfortunately, however, there are those who feel that to increase consumer demand is the best approach to expanded national output. The tax reduction bill, now before the Senate, is aimed in this direction; so are the many make-work Federal employment programs sponsored by this administration. These economists believe that extra dollars in the consumer's pocket, at the same rate of labor, will automatically result in economic growth as businesses compete for the overflow of money. Overlooked, unfortunately, is the definite tendency for prices to rise commensurate with new money. If this occurs, those on fixed and inflexible incomes such as social security are, of course, caught in the inflationary squeeze. Also, as prices go up to catch the extra money, so, too, will the demands for higher wages.

On the other side of the economic picture, many of us feel the primary emphasis should be placed in new investment and the creation of job opportunities. We feel that true prosperity can best be achieved through full utilization of plant, equipment, and labor, and through research, producing better things for all Americans. Honest economic growth starts with production and service and is passed on to consumers in the form of decent wages, fair dividends, new jobs, and better products at lower prices. A steady currency builds business confidence.

A recent article in the Wall Street Journal points up the envious notes of industrial growth in Europe and gives credit to their understanding of a need for a spur to private investment to attain economic goals.

Mr. Speaker, under unanimous consent, I insert "Review and Outlook" from the January 28, 1964, edition of the Wall Street Journal at this point in the RECORD:

REVIEW AND OUTLOOK: THE ENVIOUS ECONOMISTS

For some time now Washington's economists have been openly envious of Europe. If only we would follow the European formula, the reasoning seems to go, we could speed economic growth and curb unemployment.

Europe's gains in the years since World War II have surely been striking. Walter Heller, Chairman of the Council of Economic Advisers, called attention to some of them again in a statement appended to the President's economic report:

"The advance in productivity has been revolutionary. During the 1950's, output per manufacturing worker increased 2¼ times as fast in Germany as in the United States * * *. Nonetheless, the Europeans have maintained unemployment rates considerably lower than ours * * *. The average annual growth rate in France was 4 percent, in Italy, 6 percent, and in Germany, over 7 percent."

How was all this accomplished? "The major explanation," argues Mr. Heller, "lies in the maintenance of a very high level of demand." That conclusion is clearly shaping current Government thinking, as efforts are made to pump up demand through both monetary and fiscal policy—in this case, easy money and tax cuts. Unfortunately, however, the conclusion is based on a misreading of the European experience.

The prime concern of Europe's postwar leaders was not to inflate consumer demand. It was, instead, to promote the heaviest possible investment in the newest and most efficient types of capital equipment. Some of this was achieved with the aid of America's Marshall plan, but the nations of Europe adjusted their internal policies to assure a continuing flow of capital when the Marshall plan ended.

They did this, in part, through tax programs constructed specifically to spur private investment. Business profits were not a cause for concern; they were welcomed as the source of much of this investment.

There were other factors. In West Germany, monetary policy from the beginning of the recovery was geared not only to curb inflation but to provide interest rates high enough to induce needed new investment. In France, recovery did not get rolling until a few years later—until the French Government adopted monetary and other measures similar to those of Germany.

Not surprisingly, Europe's growing number of highly efficient factories provided steadily rising employment. Control of inflation made businessmen more confident of the future and helped open new external markets to European goods at the same time the Common Market was broadening internal demand.

The expansion was so rapid that it absorbed not only the refugees who streamed into Western Europe from behind the Iron Curtain but the many Europeans who, through these years, were migrating from farms to the industrial cities. The problem became not a shortage of jobs but a shortage of workers.

Thus Europe has indeed maintained a high level of demand. But it has done so by adopting measures calculated to produce sound economic growth—not by first trying to pump up consumer outlays.

And that, of course, is the prime aim of the tax bill now in Congress. Not only is it focused first on lifting consumer spending. In passing it also takes a direct slap at investors by eliminating the dividend tax credit.

Moreover, it is a tax cut coupled with a forecast of yet another budget deficit in the coming fiscal year. Though the projected deficit is a good deal smaller than the one expected this year, it is still large by any historical standard. And it is sure to store up still more fuel for inflation.

This danger isn't eased at all by the Government's continuing insistence on keeping money plentiful and cheap. Nor is it reassuring to learn that Washington still thinks it can fend off inflation merely by "persuading" businessmen not to raise prices.

It's not at all hard to understand why our economists envy Europe. But unless they begin to understand why Europe made its gains, Europeans may be able to restrain their envy of America.

INDEPENDENCE OF THE FEDERAL RESERVE

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee [Mr. BROCK] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. BROCK. Mr. Speaker, one of the great bulwarks of our free American economy is the traditional independence of the Federal Reserve Board. Only by being free of politics can the Reserve Board protect the dollar and maintain a sound supply of money and credit so necessary for economic advancement.

A recent editorial in the January 29, 1964, Wall Street Journal points out some of the problems in changing the concept of the Federal Reserve Board. Under unanimous consent I insert the article at this point in the RECORD, and commend it to the attention of each of my colleagues:

REVIEW AND OUTLOOK: PERFECTION AND MR. PATMAN

When the Federal Reserve System was set up a half century ago, it was a cautious compromise between those who feared the power of bankers and those who feared, with equal fervor, the power of Government. So nobody thought it was perfect.

In the years since then even the system's strongest backers have shown a receptiveness to change. All they have usually asked has been evidence, or at least a reasonably convincing argument, that change might be for the better.

It was in this spirit that Chairman William McChesney Martin and other members of the Reserve Board approached the House Banking Committee hearings on the System. No ill will was evident despite Committee Chairman PATMAN's sweeping proposals for revising the Fed.

What dismays Mr. PATMAN, as well as a number of other Washington liberals, is the System's semi-independence of Washington politics. True, members of the Board are appointed by the President, but then they are free to go their own way. At no time is the Fed compelled to gear its policies to those of the Treasury, Congress, or anyone else though, as a practical matter, it has seldom been wholly aloof to the political world around it.

The Banking Committee chairman would be satisfied only with new legal curbs on the Fed's freedom. For one thing, he would like to shorten the current 14-year term of Board members. He may have been surprised when this proposal met no real opposition from Mr. Martin; the Reserve official's chief suggestion was that, if the term is cut, the law should also be changed to make it possible to reappoint Board members. There's no evidence that a member necessarily would exhaust his usefulness to the System in, say, 6 or 7 years.

Mr. Martin, however, did oppose Mr. PATMAN's plan to expand the Board from 7 to 12 members. But he did not mention the idea's obvious court-packing overtones; he merely commented that a 12-man Board would be unwieldy. A look around Washington hardly proves that efficiency of Federal agencies has any close relationship to size.

Similarly, experience hardly seems on the side of another Patman notion—that the Treasury Secretary should automatically head the Reserve Board. Mr. Martin reminded the legislators that the law had once specified that the Secretary should be a Board member. This provision was changed long ago because Congress decided the officer who paid the Government's bills should not have the power to create the money to pay them. Surely Congress has enough troubles now with conflicts of interest without going out of its way to revive an old one.

Moreover, the Nation has already sampled what it's like for the Federal Reserve to be firmly under the thumb of the Treasury. The experience was not one to encourage repetition.

It began during World War II, when the Federal Reserve poured billions of newly created dollars into the economy to facilitate financing of the hugely expanding national debt. While the war was on the inflationary

effects of this procedure were limited by an array of Federal controls.

After the war the controls disappeared but the Fed still believed itself bound by the wartime commitment. By any U.S. standards, the ensuing price inflation was explosive; between 1945 and 1951, when the System regained a measure of freedom, the wholesale price index shot up by close to 70 percent.

Is there really any reason to believe the results of administration domination would be a great deal different now? Though President Johnson says Federal Reserve policy should be "flexible," he couples this with a warning that "it would be self-defeating to cancel the stimulus of tax reduction by tightening money." When it comes to resisting inflation, the administration seems to rely mainly on warning business and labor about raising prices and wages, instead of encouraging the Fed to protect the dollar.

The Reserve System still is imperfect, and perhaps it should move toward some improvements. But history suggests Mr. PATMAN is pointing in the opposite direction.

THE WORK OF CONGRESS AND OF A CONGRESSMAN

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. MACGREGOR] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. MACGREGOR. Mr. Speaker, my colleague the gentleman from the 12th Massachusetts District [Mr. KEITH] has issued a newsletter to his constituency that contains, in my opinion, many worthwhile comments on the work of Congress and of a Congressman. His notes on the education legislation passed during the last session and on that session's major achievement, the elimination of more than $6.5 billion from the budget for fiscal year 1964, will be of particular interest. Under previous unanimous permission, I insert pertinent parts of that newsletter at this point in the RECORD.

CONGRESSMAN HASTINGS KEITH, 12TH DISTRICT, MASSACHUSETTS

DEAR FRIENDS: The exhausting 12-month first session of Congress proved a dramatic, tragic, often frustrating and sometimes rewarding year on Capitol Hill—one we won't forget and one from which some of us will not fully recover for a long while. Yet, here we are deep into the second session. Its legislative course is still uncertain, but there can be no question that it will be filled with explosive controversy and that decisions face Congress on many of the major issues of our time.

BEHIND THE SCENES BOXSCORE

Before taking a brief glimpse at what lies ahead, I thought you might be interested in a few notes on what that recordbreaking first session meant to my office—from a practical, work-a-day point of view—and would perhaps be interested in a typical page from my 1963 appointment book. (The latter may partially answer critics of our "do-nothing Congress.")

VITAL STATISTICS

Twelve thousand two hundred and thirty-one letters written to constituents, Federal agencies, and colleagues; more than 3,200 cups of cranberry juice served to office visitors; 24,367 minutes of recorded long-distance telephone calls to the 12th Congressional District; 26,010 air and auto miles in travel between Massachusetts and Washington, or more than once around the world; 137 quorum calls and 117 rollcall votes, not counting the many simple voice votes on the House floor.

Congress as a whole saw the introduction of 14,168 bills and resolutions, and passed into law 257 public and 165 private bills.

I should note that the cranberry juice, which has made my office a very popular one, is supplied by Ocean Spray Cranberries, Inc., of Hanson and Onset. With regard to my telephone calls, I have averaged, each year, about $900 over the allotment. Another expense is travel. A Congressman is allowed only three round trips.

WHAT DID CONGRESS DO?

Critics of Congress, and they were legion this last session, complained, in effect, that Congress took too long to do what in the end was not enough. It did earn the dubious distinction of being the longest peacetime session in 22 years and there was much unfinished business—prominent was the civil rights bill and the proposed tax cut. One thing critics neglect to mention is the fact that Congress made the most significant cut in the budget since a Republican Congress chopped Harry Truman's budget requests by $11 billion. If anyone is interested in taking up an unpopular cause, i.e., defending his lawmakers, he might note that for every one of the 1,670 hours and 54 minutes the House and Senate met last year, the taxpayer was saved another $3,590,000—on the overall average, of course. (The chart I have prepared shows the amazing results that were achieved.)

TAX CUT COMING?

With April 15 bearing down upon us, and W-2 forms starting to appear, hard-pressed taxpayers are looking with increasing interest on the tax-cut controversy. The budget reduction, amounting to a total of nearly $6.5 billion, could set the stage for a meaningful tax cut in 1964. Much will depend upon President Johnson and his ability to carry out promised economies in his administration. Cutbacks in Federal spending can be made with little hardship and without jeopardizing our national health, welfare or security. The question is, will the cuts materialize? Or, is this just campaign-year talk? I want a tax cut as much as the next man, and have said that I will vote for one when convinced there is a serious and successful effort being made to cut the waste and inefficiency out of our domestic and foreign aid programs. A good start has been made, with the help of a cost-conscious Congress, and I hope the trend continues.

TRIBUTE TO THE LATE PRESIDENT

November 22, 1963, is a date that will live in infamy. The death of our President had a tremendous impact throughout the world, but to those of us in southeastern Massachusetts we lost more than a leader—we lost a friend and neighbor. As a special memento for residents of the 12th District, I am enclosing a copy of a speech in the CONGRESSIONAL RECORD, which contains remarks made in tribute to John Kennedy, plus several fine articles and editorials from newspapers in our district.

ROUND AND ROUND IT GOES, WHERE IT STOPS

The political wheels of fortune are spinning faster in this election year. There is little question who will head the Democratic ticket, but who will the Republicans pick as their nominee? For that matter, who will the Democrats choose as a running mate for their presidential candidate? Who are the favorites in the 12th Congressional District? We can conduct our own grassroots poll if you will send me a postcard (to room 1317, New House Office Building, Washington, D.C.) naming your own choice for either the Republican presidential nominee or the Democratic vice-presidential nominee. When all the ballots are in I'll announce the results in the local press.

NEW BEDFORD, ABINGTON MEN JOIN STAFF

Charles F. Butler, of Abington and Peter Sullivan, of 56 Hill Street, New Bedford, have joined my staff in Washington. Formerly with the Civil Aeronautics Board, Charlie has as one of his assignments the research on legislation before my committees, Interstate and Foreign Commerce and Merchant Marine and Fisheries. Replacing another former New Bedford student, Stanley Dabrowski, Peter works on Saturdays and after class on many projects, including keeping our mailing list updated. Incidentally, Stan is now an economist with the Bureau of Commercial Fisheries here in Washington.

MIDSEMESTER BREAK

The year 1963 was an educational year here in Congress. We authorized Federal assistance for the construction of higher education academic facilities, we initiated new vocational education assistance, we expanded the National Defense Education Act, we extended the impacted areas assistance programs, we authorized loans to medical, dental, and related professional schools for construction purposes, we approved student loans for those studying medicine, dentistry, and osteopathy, and we authorized Federal aid for combating mental illness and retardation.

There were weaknesses in some of these bills, but overall they will go far toward meeting the educational needs of the Nation. One weakness worth commenting upon was the departure from previous policy (which I opposed) in the Vocational Educational Act that established new Federal residential schools for unemployed youths, and federally financed work-study projects for selected high school students. These two programs—financed completely out of Federal funds, including salaries—will cost the taxpayers $150 million in the next 4 years alone. Once established, they will undoubtedly become permanent programs. The biggest danger, however, lies in diminished local interest in this kind of project and the possibility of political factors entering into the decision as to where the various schools will be located.

During the current session the legislative calendar will be crowded with the unfinished business of the old year. Before Congress goes out to meet the electorate this fall, we must resolve—in one way or another—questions on civil rights, tax reduction, and, hopefully, reform, presidential succession, hospital assistance for the aged, and tax credits for students and parents of students. These bills and many others much too numerous to list must be evaluated on their own merit, according to whether or not there is a real need, whether the Federal Government has a legitimate responsibility, and whether the proposal meets the test of sound fiscal policy.

Cost-conscious Congressmen were able to chop more than $6.5 billion off the fiscal year 1965 budget. President Johnson's budget for 1965 appears to vindicate the proposal Republicans made last year to hold spending to $98 billion in fiscal year 1965 as a condition for tax reduction. A firm commitment by the President and Congress to hold Federal expenditures within the 1965 estimates should set the stage for bipartisan support of the tax bill. One important test of good faith for the administration will be the size of its supplemental requests for 1964.

Detail of congressional cuts

Federal agency or department	Administration's budget request	Finally OK'd by Congress	Total net reduction
Interior	$998,009,000	$952,456,500	−$45,552,500
Treasury and Post Office	6,146,842,000	6,045,466,000	−101,376,000
Labor and Health, Education, and Welfare	5,759,489,000	5,471,087,500	−238,401,500
Agriculture	6,368,755,000	[1] 6,047,988,340	[1] −320,766,660
Legislative	182,218,450	168,293,069	−13,925,381
State, Justice, etc	2,159,891,900	1,820,093,000	−339,798,900
Defense	49,014,237,000	47,220,010,000	−1,794,227,000
District of Columbia	52,868,000	40,368,000	−12,500,000
Independent offices	14,658,588,000	13,224,518,050	−1,434,069,950
Military construction	1,966,400,000	1,585,880,000	−380,520,000
Public works	4,561,957,000	4,406,272,700	−155,684,300
Foreign aid	4,874,400,330	[1] 3,311,400,370	[1] −1,562,999,960
Total	96,743,655,680	90,293,833,529	−6,449,822,151

[1] Estimated.

The very brief recess between sessions did not permit me to make my usual tour of the district, which I regret very much. If there are matters that you would like to bring to my attention, however, please do not hesitate to write.

Sincerely,

HASTINGS KEITH,
Member of Congress.

LIMITATION ON RESIDUAL FUEL OIL

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from West Virginia [Mr. MOORE] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. MOORE. Mr. Speaker, there are now pending before the House Ways and Means Committee some 40 bills which would impose by law a limit on the amount of residual fuel oil which can be imported each year into the eastern part of the United States. A similar measure, signed by 30 Senators, is up for action in the Senate.

This is important legislation, and as one of those Members who have introduced identical bills in the House, I urge the Ways and Means Committee to find the time during a busy schedule to hold hearings on it, and promptly report it to the floor for action.

This is important legislation, Mr. Speaker, because it is written to protect the domestic fuel industries and the large segment of the economy which depends on them against excessive imports of an unneeded foreign fuel. It is not a coal bill. I want to make that clear. Because a number of our colleagues from coal-producing States have introduced the legislation, some newspapers have reported the bill as being expressly—and only—designed to protect the coal industry.

Such legislation would help the coal industry against the flooding of the east coast fuel markets with this imported waste oil, to the exclusion of coal produced in the Appalachian area.

But I want to stress that as important as this proposed legislation is to the coal industry—the coal-producing companies, the miners, and to the coal-hauling railroads—there is yet another reason why this legislation should be passed.

I refer to the protection which residual oil import controls extends to the domestic oil industry. This is amply proved by the fact that many Members from oil producing States, without one pound of coal production within their borders, are enthusiastically supporting the legislation.

It would appear that Secretary of the Interior Udall, to whom President Johnson has delegated authority for administering the Nation's oil programs, including imports, fully recognizes the importance of residual import controls to domestic oil.

Mr. Udall, in a recent letter to opponents of the residual oil portion of the oil import program, declared:

> In order to maintain the integrity of the control program it is necessary to retain controls on all of the principal derivatives of crude oil, including residual fuel oil.

What Secretary Udall is so clearly pointing out is that if controls on residual fuel oil imports are removed the entire oil import program will be dangerously weakened, if not destroyed.

Surely, there is no one in this House who seriously believes that, in a period when low-priced crude oil has glutted the world markets, we can open wide the door of this Nation to free and unlimited imports. The result would be the utter destruction of the domestic oil industry—the independent producers and refiners who must have the protection afforded by the oil import program to survive against the competition of the large international oil companies.

More importantly, the national security would be gravely weakened if we permitted unlimited oil imports and the Nation could not maintain a healthy domestic petroleum industry capable of exploring for and developing new petroleum reserves.

The Presidential proclamation issued in March of 1959 establishing the oil import program was based upon the premise that such a healthy domestic petroleum industry could be maintained only if import controls were held in check and a balance maintained between imports and domestic production.

Nothing which has happened since that time has raised any question as to the wisdom of the President's decision. In fact, the tremendous increase of 1.5 billion barrels annually in oil production outside of the United States in the 1959–62 period provides compelling proof of the necessity of the President's action then and of the urgent need to continue and strengthen oil import controls.

It must be borne in mind that crude oil from the Near East can be landed at the head of the Houston ship channel for at least $1 a barrel less than oil produced in wells just a few miles away. If controls should be removed, this cheap foreign crude oil would come in in such vast quantities that domestic producing facilities would be forced out of business.

In discussing the relation of residual import controls to the domestic oil industry, Secretary Udall in his recent letter to congressional critics of the program also said:

> Last year's report on residual fuel oil by the Director of the Office of Emergency Planning did not address itself to the broad question of the underlying requirement for the retention of controls on petroleum and its products. The report considered narrowly the statistical position of residual fuel oil, and its recommendations were drawn from this limited perspective. When the national security contribution of the residual fuel oil program is measured in the broader terms of the overall petroleum import control system, it is apparent that in order to maintain the integrity of the control program it is necessary to retain controls on all of the principal derivatives of crude oil, including residual fuel oil.
>
> Taken alone, almost any product of petroleum could probably be determined to present no particular problem from the standpoint of national security, and the argument could be made that controls on such product could be eliminated without danger to the Nation. From the standpoint of the total petroleum position of the United States, however, the logical extension of this argument could and would lead to piecemeal dismemberment of a program which is almost universally recognized as being essential to the national security.

I assert, Mr. Speaker, that all these facts make it plain that maintenance of import controls on residual fuel oil are essential—to the domestic coal industry, to the domestic petroleum industry and to the national security. I urge my colleagues to join in the fight to preserve and protect our domestic fuels and thereby strengthen the national security by supporting legislation to continue controls on residual oil imports.

THE NEW RAYBURN BUILDING

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. BRAY] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. BRAY. Mr. Speaker, it appears that the new House Office Building, which we call the Rayburn Building, may be ready for occupancy in January 1965. I am not attempting to pass an opinion on how useful this building will be, but I trust that every Member of this body is aware of the tremendous amount of the taxpayers' money that has gone into this pile of stone.

As I recall, excavation for this building commenced about 9 years ago, and while we cannot determine exactly what the cost will be, it has been estimated that it will be well over $100 million. It will be one of the most costly buildings ever erected by man, if not the most costly. The building is costing several times its original estimate. The Washington Post of January 29 had an interesting editorial critical of this building entitled "Edifice Rex."

Many Members of this body have been justly demanding that our Nation return to sound economy and cease spending the taxpayers' money as though it were confetti. But, Mr. Speaker, if we intend to really make the American people understand that we are deeply and sincerely interested in economy, we must stop such extravagance as that of which we are guilty in the new House office building. Many of our Members would have assisted in blocking the construction of this building had they known of its tremendous cost. Personally, I was apprehensive that the cost of this building would go far, far beyond its original estimate so at every opportunity I voted against this project. I want to point out that the gentleman from Iowa [Mr. GROSS], forcibly and clearly pointed out on the floor that this would be a tremendously costly operation and opposed it. I joined him in that opposition but I doubt that either of us at that time realized the great amount that this building would finally cost.

We in the Congress must look ahead and see to it that we are aware of the final expenses of projects which we allow to be started.

DISTRICT OF COLUMBIA TAX EXEMPTION FOR STUDENTS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MULTER. Mr. Speaker, I have introduced a bill to amend the District of Columbia Income and Franchise Tax Act of 1947 to provide an exemption for parents of children who are students and who earn more than $500 a year.

At the present time parents may not take as an exemption in the District of Columbia a student who earns over $500 even though the parent may still be bearing the full financial burden that higher education has become. My bill will bring the District law into line with Federal income tax provisions which do allow an exemption for students who earn over $500 per year.

I hope that the bill can be enacted during this session of Congress.

A BILL TO PROHIBIT BANKS FROM ENGAGING IN THE BUSINESS OF LEASING PERSONAL PROPERTY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. MULTER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MULTER. Mr. Speaker, I have today introduced a bill to prohibit national banks or banks operating under the laws of the District of Columbia or banks which are members of the Federal Reserve System or banks whose deposits are insured by the Federal Deposit Insurance Corporation from engaging in the business of leasing personal property.

Some members of the banking community have recently begun to purchase personal property, such as business or industrial machinery, and so forth, for the purpose of leasing it to businesses or industries. This is clearly outside of the traditional concept of banking. Banks are financial institutions and not commercial enterprises within the framework of our economic system. While national banks have the explicit power to acquire real estate, this power is limited to real estate to be used for bank premises. If Congress had intended banks to have the power to own personal property—other than the implicit power to own personal property for their own use—it would have explicitly set forth such power and established appropriate guidelines and limits.

In a March 18, 1963, letter to the presidents of all national banks, Comptroller Saxon has sanctioned the purchase and leasing of personal property by national banks. I believe he was wrong in doing so. I strongly urge that his directive cannot validate such illegal and ultra vires conduct. It is quite clear that the ownership and leasing of equipment is a business and commercial function unrelated to banking.

There are a long series of cases wherein this position is affirmed. I hope that this bill can be enacted during the current session so that the clear intent of the Congress on this subject is reaffirmed.

PANAMANIAN OUTBREAK, JANUARY 9, 1964: WHAT REALLY HAPPENED

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FLOOD] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FLOOD. Mr. Speaker, many Members of the Congress have observed the unfactual reporting of the Panamanian outbreak on January 9, 1964. In the deluge of words that followed there was much that was distorted or simply untrue. The people of our country and the Congress, however, were not driven to panic as was apparently expected in communistic revolutionary circles. Instead, they demanded that our Government stand firm at Panama and, when supplied with facts, supported the actions of Gen. Andrew P. O'Meara, commander in chief of the U.S. Southern Command, in defending the Canal Zone against mob invasion and in restoring law and order. Moreover, I may add that it was his effective action that enabled the civil employees of the Canal enterprise to operate the Panama Canal throughout the disorders without interruption to traffic and thus to add new glory to the history of the Panama Canal.

Fortunately, the Panama Canal organization assembled key facts as to what really happened and, in the January 20, 1964 issue of Spillway, a publication of the Panama Canal, published them with related information. This issue includes comments by the Deputy Secretary of Defense, the Governor of the Canal Zone, the U.S. district judge for the Canal Zone, an analysis of stories of the crisis as published in the United States and a summary of the economic benefits of the Canal Zone that flow into Panama, which in 1962 totaled $82,465,000.

The indicated issue of Spillway ought to be read by every Member of the Congress and the staffs of all committees with cognizance over canal matters; by officials in the executive and judicial branches of our Government; by editors, writers, and commentators; and by professors and teachers in our universities and schools who have the duty of teaching history to our youth.

To make this authoritative source material, prepared by the Canal Zone residents while the events they depict were still fresh in mind, available to the entire nation and the world at large, I quote all the articles and statements in the January 20, 1964 issue of Spillway as part of my remarks:

[From Spillway, Jan. 20, 1964]

WHAT REALLY HAPPENED

(This is a factual summary of the events of Thursday, January 9, plus some supplementary information, prepared and written by an experienced professional newspaperman, and printed in the Spillway as a service to its readers. It is not an official report of either the Panama Canal enterprise or of the U.S. Government.)

At about 4:40 p.m. on January 9 an estimated 200 Panamanian high school students, boys and girls, from the Instituto Nacional in Panama City entered the Canal Zone and proceeded up Gorgas Road carrying small Panamanian flags, the Panama National Institute Student Federation banner and the school flag. They also carried several provocative signs such as "Panama is sovereign in the Canal Zone." They proceeded in a peaceful manner to the Canal Zone Governor's residence, where they paused and sang the Panamanian national anthem and then went to the Panama Canal administration building, down the stairs and past the Goethals Memorial to an area one block from the Balboa High School, shouting "Yankee Go Home" and similar slogans. Here, they were halted by a squad of 10 Canal Zone police officers who had instructions from the Acting Governor, Col. David S. Parker, to stop the students at this point. The Canal Zone police were instructed to use no violence, but to halt the students, so as to avoid an incident.

(Governor Fleming had left the isthmus via Tocumen by air on January 9, 1964, at 5 p.m. en route to Washington for an official appointment with Thomas Mann, Assistant Secretary of State for Inter-American Affairs, and Stephen Ailes, Under Secretary of the

Army. On arrival in Miami, he was informed by Balboa Heights of the situation in the Canal Zone and Panama. After consultation with Washington, Governor Fleming returned to the Canal Zone by the first available flight to Panama. He arrived at Tocumen about 3:20 a.m. January 10, 1964, and reached the Canal Zone shortly thereafter.)

The leaders of the Panama student group informed Capt. Gaddis Wall, District Police Commander, Balboa, that they wished to go to the Balboa High School flagpole for the purpose of raising the Panama National Institute flag (a Panama flag with the school emblem and name in the flag's center) on the pole beside the U.S. flag, which was flying at the time, and to sing their national anthem. After some discussion among and with the students, the group was informed that five Panama students would be escorted by police to the Balboa High School flagpole, where they would be able to have their ceremony and display this flag in front of the flagpole, if they wished. Although the leaders of the group agreed to this proposition, there was considerable opposition to the proposal among the group. The opposition was led by an adult Panamanian, reportedly a Panama schoolteacher.

The five Panamanian students were escorted by the Canal Zone police to the Balboa High School flagpole. A number of Balboa High School students were gathered about the flagpole base. The Balboa High School students and a large group of adult U.S. civilians on the school grounds, who had gathered from nearby residential areas, joined in the singing of the U.S. national anthem.

The Panama delegation refused to have a ceremony unless they could have it on the spot occupied by the Balboa High School students, who would not move. The Panama delegation then wanted to raise the Panama school flag on the flagpole where the U.S. flag was flying, and Police Captain Wall refused permission. The Panamanian and Balboa students at the flagpole began exchanging insulting remarks.

Recognizing the tense atmosphere, the Canal Zone police endeavored to convince the five Panamanian students to rejoin the remaining members of their group before an incident could occur, but the students resisted violently. It was necessary for the police detail to forcibly push them from the flagpole. The flag was carried by four Panama students holding it at the top edge. Capt. Gaddis Wall, an eyewitness, made these two statements based on his own observations. No Canal Zone policeman tore or ripped the flag. No U.S. student tore or ripped the flag. There was a tight cordon of Canal Zone police surrounding the Panama students and separating them from the U.S. students. Since there was scuffling, pushing, and physical struggle between the Canal Zone police and the Panamanian students, the four Panama students holding the flag apparently tore it themselves during the scuffle.

The five students with the flag and a Panama National Institute Student Federation banner joined their waiting group, which was surrounded by a cordon of police to keep them separated from the Canal Zone high school students and adults in front of the Balboa High School. The Panamanian group shouted at the police for several minutes. At no time was there any encounter between the large group of Panama students and the students of the Canal Zone, as O'Connor Place Road separated them.

Canal Zone officials had requested the motor transportation division to send buses to the vicinity of Balboa High School, to stand by and provide shuttle transportation to the Republic for the Panamanian student demonstrators. At 5:45 p.m. three large buses were dispatched from the Ancon garage. The buses were parked on Gorgona Road alongside the Balboa High School Activities Building. The Panamanian students were offered this transportation but refused it.

The Panama students, after shouting insults, turned and started up the steep bank and 129 stone steps to the Panama Canal Administration Building. They halted near the dual flagpoles from which the U.S. flag flies beside the flag of the Republic of Panama. At 6:25 p.m., a group of the Panama students made an effort to lower the U.S. flag but were prevented from doing so by several U.S. civilians. With considerable shouting, the Panama students left the area and headed back to Panama city.

As the Panama students passed the Panama Canal Administration Building, they began damaging property. The group proceeded back over Gorgas Road, and en route threw stones. Five windowpanes of glass were broken on the east wing of the Panama Canal Administration Building. Twenty street lights were broken, a sign was torn off the pole in front of the Gorgas Laboratory Building, and approximately 40 louvers were broken in the Panama Canal Treasurer's Office. All the trashcans along the road were overturned. Many automobiles were stoned and car windows were broken.

The Canal Zone police refrained from making any arrests of the students in order to get the group out of the Canal Zone as quickly as possible.

While this Panama student group was en route to Fourth of July Avenue, the Canal Zone police contacted the Panama National Guard headquarters, and informed them of the situation.

From 6:45 until about 7:15 p.m., the Panama students milled around on Fourth of July Avenue, opposite the Panama National Institute, and large crowds started forming and increased rapidly.

By 7:30 p.m., the Panama mob, now grown to an estimated 2,000, moved north on Fourth of July Avenue and Kennedy Avenue to a point between the Tivoli Guest House and Shaler Triangle. Many of the demonstrators attempted to climb the fence between Kennedy Avenue and the Tivoli Guest House. A Canal Zone police detail at that location repelled them by laying a screen of tear gas along the fence. Three automobiles were turned over and burned by the demonstrators in their march from the Panama National Institute.

Only 19 Canal Zone police were on duty on the whole Pacific side when the Panamanian students entered the Canal Zone. By 7:30 p.m. practically the entire Canal Zone police force, totaling about 85 men, was deployed along the Canal Zone border and by 7:30 p.m. it was apparent the police could not hold the crowds. The police were authorized to use tear gas, and firearms if necessary to protect life.

At about 8 p.m., the Panama mob across from the Tivoli Guest House started to move along President Kennedy Avenue, heading for the Ancon Railroad Station and the freight house. Two Canal Zone police sergeants and eight Canal Zone policemen on duty in this vicinity fell back from the intersection of Frangipani Street and Roosevelt Avenue before the onslaught of at least 3,000. They took up position between the Panama Canal Sanitation Office and the civilian homes on Frangipani Street.

The mob upset and burned an unoccupied automobile at the intersection of Roosevelt Avenue and Frangipani Street and some of the Canal Zone police advanced and threw all the tear gas they had. The mob was stopped temporarily at this point from advancing farther into the Canal Zone and the homes were saved from being overrun.

About 2 or 3 minutes later, part of the mob started to burn and sack the Ancon freight house. Railroad passenger cars were set on fire and windows in the passenger railroad cars were broken. Other elements of the mob started breaking windows as they forced their way into the Ancon Laundry across the street from the railroad station. Several hundred of the mob started toward the Ancon Little Theater, where a rehearsal was in progress, and toward the Ancon housing area. One policeman with a shotgun and three other policemen were sent to protect life and property in that area.

As the mob headed for the residential area on Manzanillo Street in Ancon, the police were authorized to open fire with shotguns and revolvers, shooting over the heads of the mob and on the ground in front of them.

This action, at 8:20 p.m., as nearly as can be determined, was necessary to save lives. It was the first actual firing by Canal Zone police, although by that time seven Canal Zone policemen at that location had been injured in the hail of stones and flying objects directed against them.

For the next 10 minutes, the mob surged back and forth and made several efforts to penetrate the Frangipani Street residential area, but were turned back by tear gas and shots fired over their heads. Small arms fire was heard coming from Panama during this time. Considerable damage was done to the Shaler bus terminal.

The Canal Zone police received numerous reports that Molotov cocktails were being thrown against the U.S. District Courthouse in Ancon. A wire fence within the Zone was torn down in front of the U.S. district court and along Fourth of July Avenue.

Acting Canal Zone Gov. David S. Parker made a personal inspection of the Canal Zone-Panama border in the vicinity of the Tivoli guest house shortly before 8 p.m. His car was stoned twice in the vicinity of the Tivoli guest house. By that time a crowd estimated between 5,000 and 6,000 was gathering along Fourth of July Avenue. Molotov cocktails were being thrown against buildings in the Canal Zone and a number of cars had been set on fire. The Canal Zone police were having difficulty in holding back the crowds which had penetrated several hundred yards into the Canal Zone and it was apparent that life and property were in serious jeopardy.

At 7:59 p.m., Acting Governor Parker reported to Gen. Andrew P. O'Meara, commander in chief, U.S. Southern Command, that he was unable to maintain law and order in the Canal Zone with only the police and other civilian authorities. Acting Governor Parker requested General O'Meara to assume command of the Canal Zone.

Within 40 minutes from the time the first shots were fired by the Canal Zone police, U.S. Army personnel arrived at Portobello Street in Ancon. Complete Army control in that area was assumed about 20 minutes later after Brig. Gen. G. L. Mabry, Jr., J-3, Plans and Operations, U.S. Southern Command, had completed an assessment of the situation. He directed that no further firing be done unless an attack was made, as the Army was ready to move into that position and take over. Sporadic small arms fire was heard coming from Panama City.

A small group of policemen, sent to the Ancon freight house after the Army arrived, dispersed a mob armed with Molotov cocktails, which were being thrown at the freight house. A Canal Zone fire rig arrived in time to put out the fire at the freight house, caused by the fire bombs.

A Molotov cocktail was thrown through the windshield of an automobile that came out of Panama into the Canal Zone at Frangipani Street, Ancon. The car burst into flames, but the two passengers escaped.

At 9:15 p.m., upward of 1,000 Panama demonstrators proceeded from the Canal Zone-Panama limits into the Canal Zone toward Balboa on Balboa Road. They were stopped initially by an eight-man detail of policemen. The mob threw stones at the police and gunshots were heard. The Canal

Zone police fired over the heads of the mob and onto the roadway in front of them in an attempt to stop them. The demonstration continued and was still in progress when the Canal Zone police detail (which had been increased to 30 men) was relieved by a U.S. Army platoon about 10:30 p.m., after the mob had penetrated about 400 yards into the Canal Zone.

The large crowd on Fourth of July Avenue in the area of the "H" Street intersection in Panama City commenced coming across Fourth of July Avenue at about 9:35 p.m., throwing stones at the home of U.S. District Court Judge Guthrie F. Crowe. The stones broke through the screens and entered the house and were followed by three Molotov cocktails. One fire bomb landed underneath the house, against the wooden latticework, another landed on the front porch, and the third, upstairs inside the house. Despite the continuous hail of rocks thrown by the mob, Judge Crowe and Canal Zone police personnel at the scene succeeded in throwing the Molotov cocktails out of the house and extinguished one burning underneath the house.

Shortly afterward, several more Molotov cocktails were thrown and landed about in the same places as the first. The hail of rocks now was so thick it was extremely dangerous to go anywhere near the fire. Canal Zone firefighters appeared on the scene, but were unable to approach the house due to the continuous shower of rocks. A small Canal Zone police detail, reinforced by a squad of policemen who fired a number of shots into the air and into the ground, dispersed the rioters, who took cover in buildings across Fourth of July Avenue and down "H" Street in Panama City. Canal Zone Fire Division personnel went into action and extinguished the blaze at Judge Crowe's home, where only minor damage was done.

The rioters reappeared at 9:55 p.m. and demonstrated for about 2 hours. They burned automobiles they brought out of Panama, as well as cars that had been parked on the side of the road and in garages of the apartment houses in the vicinity. All these cars were pushed onto Fourth of July Avenue after they had been set on fire.

Sporadic shots were heard, apparently coming from buildings in Panama City near the Canal Zone border. From 12:45 a.m. to 3 a.m., January 10, the Canal Zone police furnished support to the military. After 3 a.m., the Canal Zone police were removed from the border and resumed Zonal police patrols. At no time during the above events did Canal Zone police enter the Republic of Panama.

During the period of attempting to control the Panama mob at various locations, many Canal Zone police officers received injuries, but none were serious.

The Atlantic side of the Isthmus was fairly quiet until 9:05 p.m., Thursday, January 9. When information was received by the Cristobal District Canal Zone police that rioting had broken out in the Balboa District, available personnel were called out and placed at strategic points along the boundary.

At 9:05 p.m. information was received that about 20 Panamanians were proceeding toward the Canal Zone-Panama border at Colon, carrying a Panamanian flag and shouting anti-United States insults. In little more than 15 minutes, the group grew to about 1,500 men, women, and children. They marched down Roosevelt Avenue to the Cristobal Administration Building, where, during the day, the Panama flag flies alongside the U.S. flag on dual flagstaffs. Some of the mob went to the second floor of the building and raised the Panama flag, under the surveillance of a riot squad of police.

During the flag raising, Daniel Delgado Duarte, mayor of Colon, accompanied by several members of the Colon Municipal Council, talked to the crowd and aided in averting violence at that time. Several agitators in the mob tried to incite the crowd, but were restrained.

At 9:30 p.m., the mob removed the Panama flag they had previously placed on the Cristobal Administration Building and started dispersing, many shouting insulting remarks as they passed the Cristobal Police Station. The crowd went back to Roosevelt Avenue and, on the way back to Colon, broke windows in two cars parked on the street and the lower windows of buildings along Steamship Row. The mob broke windows on the 11th Street side of the former Cristobal Commissary building and windows in the Masonic Temple.

National Guard headquarters in Colon was advised that elements of the mob were heading for the U.S. Consulate in Colon, and National Guardsmen were dispatched to that location.

The Colon mob grew in size but was contained by the Colon National Guard until about 10 p.m., when some of the mob broke past and moved up to Balboa Avenue.

Part of the mob moved south on Balboa Avenue into the Canal Zone, breaking windows in the Canal Central Employment Office, License Office, and in the Cristobal Railroad Station. Police held them at that location until troops arrived.

It was reported that windows were being broken at the Cristobal YMCA and that it was being looted. A riot squad of about 10 Canal Zone policemen routed some 50 looters. Four Panamanians arrested inside the building were brought to Cristobal Police Station and charged with participating in a riot. Several policemen were injured by brickbats.

Some Atlantic-side Canal Zone police officers had been injured during the rioting prior to the time the military assumed control.

After the U.S. military assumed command in the Canal Zone, most of the action on the Pacific side of the Isthmus was contained along the Panama-Canal Zone border. On the Atlantic side, the Colon mobs did intense damage. Canal Zone police and U.S. troops were subjected to rock-throwing and other attacks. Persistent sniper fire killed three American soldiers and wounded many others, including civilians.

No Americans were involved, except as victims, in the burning, looting, and other violence in Panama. No Canal Zone police or U.S. troops entered the Republic of Panama. Canal Zone residents remained at their residences and did not participate in, nor provoke, any violence.

Major damage on the Pacific side of the Canal Zone, as of Saturday night, included the following: Tivoli Guest House extensively damaged (persistent sniper fire forced evacuation of Tivoli Guest House Friday night); Ancon School damaged; one flagpole razed at Shaler Triangle, the first Canal Zone site where the Panama flag was raised to fly alongside the U.S. flag; Ancon Laundry damaged; and Canal Zone police booths at Balboa Road, the Limits, and the Ancon Gymnasium destroyed. The fence on Fourth of July Avenue was torn down at numerous places. The Shaler Bus Terminal was wrecked and street light standards on Fourth of July Avenue and Thatcher Ferry Bridge approach were damaged.

In addition, windows were broken in railroad coaches at Panama Railroad Station in Ancon and one coach set afire; all light fixtures on Panama Railroad Station platform were broken, station office records were scattered in the station and on the tracks, shipments in baggage rooms were pilfered, drug shipments were strewn along the tracks, office furniture and files in station office were overturned and scattered, lockers were broken open and vandalized; houses in Gavilan area were stoned; street signs were torn down on President Kennedy Avenue; some outside lights were broken at Gorgas Hospital and ambulances at Gorgas were dented by rocks; and windows were broken in the Sanitation Division's Ancon office.

The major damage in the Cristobal area included: the Cristobal YMCA, which was gutted by fire; the Masonic Temple, which was abandoned to fire; the sanitation office, which was destroyed by fire, and the Cristobal warehouse which was burned. The Panama Canal personnel bureau offices, the driver license examiner's office, and the nurse's office in the former Cristobal commissary building were left a shambles with all glass broken, furniture and typewriters thrown in the street, and papers strewn about the floor. The baggage room, ticket seller's office, dispatcher's office, yardmaster's office, car inspector's office, shop area, and toilet facilities were destroyed by fire and a shelter in the Dock Yard 9 outside fenced area was destroyed by fire. A dozen or more ties in the main line track in Colon and an equivalent number of ties on the ladder track also were burned out. As a result of this damage, railroad trains were unable to operate into the Cristobal pier area.

In Panama, within sight of the Canal Zone boundary, rioting mobs, partly students but with many adults, overturned and burned cars, and burned and damaged a number of buildings in Panama, especially those occupied by U.S. firms.

By taking emergency measures the transit operations of the Panama Canal continued uninterrupted. Thirty-one ships transited on Friday; 26 transited on Saturday, and 34 were scheduled to transit Sunday.

Canal Zone Gov. Robert J. Fleming, Jr., commended the outstanding performance of duty by the police officers and the personnel of the fire division, who loyally and courageously served long hours without relief. He spoke of the maturity displayed by nearly all Panama Canal employees, both United States and Panamanians, who stayed with their jobs and kept ships transiting and other essential supporting operations on schedule. Governor Fleming mentioned what a welcome sight the morning train was when it arrived at Balboa Heights Friday morning, as evidence of the organization's determination to continue on.

Background information on the Panamanian student march to Balboa High School on January 9 is given below:

On December 30, 1963, Governor Fleming issued a press release stating that commencing January 2, 1964, the Panamanian flag would be flown alongside the U.S. flag on civilian land areas in the Canal Zone wherever the latter flag was flown by civilian authorities.

This plan was described as implementing an agreement reached earlier in 1963 between the Government of the United States and the Republic of Panama.

The press release of the Governor was printed both in English and Spanish in local newspapers. It stated that both flags were flying at 11 different sites, including Shaler Plaza (near the Panamanian boundary at Ancon, Canal Zone) and at the Thatcher Ferry Bridge, and that six additional sites had been selected. It was also indicated that the U.S. flag would not be officially flown alone at certain other sites in civilian communities.

Among the places where the flag would no longer fly was outside Balboa High School. Some students, encouraged by their parents, resented the removal of the U.S. flag from their school.

On the morning of Tuesday, January 7, students ignored the Governor's directive and raised the U.S. flag at the flagpole on the lawn of Balboa High School. An hour later, Civil Affairs Director Bernard I. Everson, and High School Principal David A. Speir took down the flag and removed it.

A short time later, Balboa High School students gathered outside the school and massed for a demonstration. Some students raised a smaller flag on the flagpole and it was not removed the second time by school officials.

Students who feared the Panama Canal officials might remove the flagpole stood vigil during the night. The next day, students at several other schools also raised American flags.

The student activity with its controversial aspects was printed in detail. The majority of the Spanish language news media twisted the story to make it appear that the Balboa High School students objected to the flying of the Panama flag.

This was the situation which led to the visit to Balboa of the students from Panama's Instituto Nacional on the afternoon of Thursday, January 9, which, as it later turned out, was the catalyst for the violence which started that night.

SECRETARY VANCE COMMENTS ON ZONE PROBLEMS

(Recent queries to Deputy Secretary of Defense Cyrus R. Vance, and his comments):

Question. Mr. Secretary, we hear reports that a great deal of our trouble down there has been caused by the "ugly American" concept among the American civilians within the zone. How much of the responsibility should be attached to these people, or should any?

Secretary VANCE. I would say by and large, the people in the Canal Zone are a cross section of the American people and much the same as you would find them here. Down there, as here, there are some people who have different views from the others, so that I would say the situation is not too dissimilar from what you would find anywhere.

Question. Mr. Secretary, the stories out of Panama told about how the American high school students possibly provoked all of this by their conduct with respect to the flag. Is it so, did they provoke it that way, and were they wrong in what they did about the flag, and if they were wrong, has any disciplinary action been instituted against them? What is the story about the flag?

Secretary VANCE. The story about the flag is a rather complicated one. In 1963, there were flags flown at a number of locations within the Canal Zone where the United States and the Panamanian flags were flown side by side. It was decided by the Governor after consulting with the citizens, and he believed that he reflected the view of the majority of these citizens, that with respect to the Canal Zone schools he would not fly any flag outside those schools and would fly the American flag inside the schools. This decision went into effect after the Christmas holidays.

At that time students at the Balboa High School raised the American flag at the flagpole outside of the school. It was taken down and the students raised it again. The Governor acting in a fashion which, because of the high emotion involved, he thought would best preserve the peace while he was trying to work this out, permitted the flag to remain flying.

It was at this point that the Panamanian students, some 200 to 250, came into the Canal Zone and were permitted to send a delegation up to the flagpole with their flag, and there was an exchange of words between the students but they did not touch each other. The Panamanian students then went back and joined the balance at the administration building. Following that, the group of Panamanian students threw rocks at the administration building. The police, of whom there were about 10 to 15, moved them to get them out of the Canal Zone. On the way these students threw rocks at the Governor's house, at lightposts, at cars, and none of them were arrested and they were moved on until they got out of the Canal Zone.

GOVERNOR HAILS MAGNIFICENT RECORD: THANKS EMPLOYEES FOR LOYALTY, RESTRAINT, FORBEARANCE, DEDICATION

Fellow Employees:

With so much bad news reaching us these troubled days, it is cheering to have one positive report of good news each day. This good news is that the employees of the Panama Canal are continuing to transit ships expeditiously and safely. A magnificent record of sustained service to shipping is being maintained during this troubled period.

I thank the employees of the Panama Canal for their loyalty, restraint, forbearance, and dedication to duty. The lack of communication with our employees has kept them in a state of confusion and perhaps frustration. Conflicting reports and rumors have created tension and excitement.

My message to employees is this. Don't get excited about what you read in the local papers. English language newspapers printed in Panama are Panamanian papers and in all recent reports have been slanted. News favorable to Panama is highlighted. One of these papers for months has been dedicated to encouraging the controversy between Panama and the United States. And when the chips were down and all of us, Panamanians and Americans alike, needed objective reporting, the other one was not much better.

When you read the local newspapers, keep cool and remember that the items you read are calculated to stir you up and get you excited. Now you may ask about the United States press. The first batch of newspapers from the States really clobbered the Zonians. I have been working with correspondents and I believe the tide is changing. The next few days should bring stories from the United States which will be more objective. It is essential that we get the true story before the American public but it takes time and we couldn't do it during the first few days.

During the time of crisis along the borders, the Panama Canal administration could not publish, print, or disseminate news to its employees directly. It was necessary, and I am sure you know why, that only one voice should speak for the United States. Later the Peace Commission of the Organization of American States requested the Governments of the United States and the Republic of Panama to refrain from discussing the events starting Thursday, January 9, in an effort to improve the climate for resumption of relations. The United States has scrupulously observed this request. Our forbearance will earn us allies in the long term.

I do not need to tell you that the American employee of the Panama Canal has been singled out for special attack by many individuals and much of the press and radio media. I have been telling, and most emphatically, representatives of the press and radio that the American employee was not responsible for what has happened. The current conflict springs from something bigger, more basic, than we Americans in the Canal Zone.

Before the existing crisis is completely resolved an examination will be made of the basic causes of United States-Panama differences. To the extent that I am permitted to do so, I will keep the Panama Canal employee informed of what is going on. You can depend on this.

Panama Canal employees may receive more unwarranted criticism before the true facts are established and the United States public better understands the situation. In the meantime, keep your blood pressure down, ignore unfair and slanted publicity, and continue to do your work to the best of your ability. This will be a major contribution from each of you. Again, I thank you for your loyalty and steadfastness.

ROBERT J. FLEMING, JR.,
Governor.

POLICE COURAGE, RESTRAINT, PRAISED HIGHLY BY JUDGE

JANUARY 13, 1964.

Chief E. S. SHIPLEY,
Police Division,
Box M, Balboa Heights, C.Z.

DEAR CHIEF SHIPLEY: I am writing to express my appreciation for the fine work that was done by the courageous men under the direction of Lieutenant Richards at my home and the courthouse on Thursday night, January 9, when the rioting took place on the border between the Canal Zone and Panama City.

The rioters succeeded in breaking down the storm fence which separated my house and the courthouse from Fourth of July Avenue, and a howling mob of 400 or 500 were storming up the hillside and burning my house when a small group of your men came down and went in the house with me and fought the fire and assisted the fire department in extinguishing it.

At the time the mob was attacking the house, it was impossible to get the firetruck and equipment up to the front because the rioters were shooting and throwing rocks, and your men repelled the mob by opening fire and shooting a few bursts of ammunition over their heads. This permitted the firetruck to operate in the house and all of our personal effects were saved. The men performed with the greatest of courage as they were hopelessly outnumbered and very lightly armed.

I have had many years of experience with police officers, first as commissioner of the Kentucky State Police and later here in the Canal Zone as judge of the district court, and I have never seen men act with more restraint and composure in the face of extremely hazardous duty than the group of men assigned to this area Thursday night. I think you should be extremely proud of them and so should the civil authorities of the Canal Zone. I am forwarding a copy of this letter to the Governor of the Canal Zone and to the Director of Civil Affairs so they may be apprised of the splendid work that you and your men performed.

With kindest personal regards and again expressing my great appreciation, I am,

Yours sincerely,

GUTHRIE F. CROWE,
U.S. District Judge.

TIVOLI BUFFET INTERRUPTED

The traditional calm and dignity that has mantled the Tivoli Guest House from the day it was opened half a century ago was maintained throughout the current unpleasantness, up to and including the evacuation of the guests Friday evening, January 10.

The Thursday night buffet, January 9, was interrupted but the Pergola bar remained open several hours. Guests who had come to the buffet from the Republic of Panama remained overnight. A few members of the Lions Club, whose weekly meeting at the Tivoli had adjourned abruptly, also remained for the night.

Snipers' fire was directed at the Tivoli Friday night, but dinner was served to 60 guests in the darkened Pergola bar in the manner that is associated with the Tivoli's service. All the louver doors were closed and the lights were very dim in the Pergola bar, the only protected area in the hotel's public rooms. Most of the sniper action was directed against the south end of the building, but there was no serious concentration at dinner time. A sufficient staff was at the Tivoli to prepare the meal and serve. The

guesthouse was in darkness and the evening's peace was punctuated by sniper's shots, but dinner proceeded as usual.

After dinner the Tivoli Guest House manager announced that evacuation of the guests was to start since the firing against the building had increased. The guests were led through the barbership and out the back door. By 11:30 p.m. Friday evening evacuation of the hotel was completed, without an incident.

PANAMANIANS HELPED MANY U.S. NEIGHBORS

One of the most discouraging aspects of the distorted news coverage of the first few days was the false reporting of attacks on American families throughout Panama (lynchings in David, etc.) with the connotation that there was a mass uprising against Americans throughout the Republic.

Fortunately for both sides, the reverse was true.

A very few American civilians were attacked by mobs along the boundary line in Colon and Panama City. Such mobs, incited to a frenzy by agitators, and mass communication media, are scarcely representative of their countrymen.

By far the majority of reports from individual families indicate that in the areas in which they reside, their Panamanian neighbors reassured them of their deep friendship and advised them that their Panamanian neighbors would protect them from the mobs.

In assessing the significance of recent events we should wait to pass judgment until the facts are established.

TYPICAL ZONIAN—WELL, HE JUST COULD BE YOU

What is the typical Zonian like?

The typical Zonian is a U.S. citizen employee of the Panama Canal. He is not a second generation Zonian, but has come from the North Atlantic, Middle Atlantic, or East Central States. He is married and has two children. He has 13 years of education and 16 years' Federal service. Of this service, 13 years have been with the Panama Canal organization.

The typical Zonian is about 45 years of age.

He pays U.S. income tax just like persons working in Washington, D.C., and U.S. citizens in any part of the United States. If he owns property in the United States, he pays property taxes on it in the United States.

The typical Zonian is certainly no less than a typical employee of Uncle Sam anywhere in the States, whether in a naval shipyard on one of the coasts or in any of the Federal facilities scattered throughout the Nation. Some observers have asserted his skills level for his job is markedly higher than that of his counterpart on a similar job in the States.

He has the same normal economic and educational aspirations for his family and himself as any other employee of the U.S. Government.

The typical Zonian, however, has an education problem for his children. And his children recognize that when their schooling is completed, employment opportunities in the Zone are extremely limited. Upon graduation from their schools here, sons and daughters of the average Zonian accept employment in the United States.

The typical Zonian enjoys a relatively high standard of living which was imported into the Canal Zone from continental United States. The employment office recognizes the fact that there would be difficulty in recruiting employees for this area unless prospective employees had assurance of a comparable standard of living. Canal Zone housing is no better and, in many instances, far less adequate than the housing at Cape Kennedy in Florida.

The typical Zonian and his family have shopped in Panama, attended cultural and social functions in Panama, attended the country fairs, and made visits to towns and cities throughout the land. Some of the Zonians have established homes in Panama and when they retired planned to spend the remainder of their lives in the Republic. Others returned to the home areas from which they came.

According to statistics compiled with personal information sheets, only 15½ percent of the U.S. citizen employees are second generation. Many of these employees accompanied their parents to the isthmus at a young age and their parents have since left the isthmus.

Many of the typical Zonians are married to Panamanians. The typical Zonian dances the traditional folk dances of Panama, eats Panamanian food, and can make a pretty good seviche himself.

The typical Zonian is a man (or woman) of many hobbies: Painting, skin diving, fishing, sports, arts and crafts work (with emphasis on Panamanian themes), gardening, rock hounding, stamp collecting, folklore study, and charity or welfare work. In many of these fields, in many instances, he participates with Panamanians individually or in groups.

THE STATESIDE STORY OF THE CANAL ZONE CRISIS

First reports of the Panama crisis were met in the United States with the belief that the incident would fade as quickly as it had flared up.

News reports gave no strong indication that the situation would take on the serious aspects that have brought it into the world spotlight.

The press, generally, gave the impression that this was a trouble spot, not an area where deepening difference would lead to a focus of world attention on the Canal Zone and United States-Panamanian relations.

What was the tone and content of U.S. newspaper and TV coverage of the situation?

It was characterized by a sincere effort at fair and objective reporting combined with an unfortunate lack of accurate information.

In a fast developing situation, pressed by deadlines and competition and working under the handicaps of reporting at top speed with almost no time for background research, the American press did its best to report a complex and fast changing situation.

But these conflicting reports led to some confusion and to the consequent formation of opinions, by American readers:

THE FLAG INCIDENT

There were at least four versions of the incident at Balboa High School. One said the American flag were torn down. Another reported that the Panamanian flag was ripped and spat upon. A third had the American and Panamanian students engaged in serious fighting. A fourth reported the school situation as a tense but calm one that led to later violence. It was difficult at times to conclude exactly what had happened, and why. Persons returning to the United States were interviewed and some of these interviews may have developed information that was not entirely accurate.

THE FIGHTING

There were false reports that Americans were lynched, left hanging from utility poles in the city. The number of persons reported killed and injured varied from a few to nearly a thousand, depending on which newspaper or wire service report was used.

THE BACKGROUND

How United States-Panamanian relations had developed in the past and in the days and weeks before the crisis and what issues are involved was also an area that received inadequate treatment. The reader needed several press reports, pieced together, in order to acquire a clear understanding of the causes underlying the situation.

THE BLAME

Perhaps too soon, commentators and editors began to assess blame on the editorial pages and in broadcasts. To editors, many of whom recalled "some trouble" in 1959, it was clear what the situation was and what action was called for on the part of the United States and Panama. Apparently, these patent solutions are clearer to editorial executives than to officials in the governments involved. Neither the American nor the Panamanian Government, nor any mediation group has found quick and easy remedies to satisfy both sides in this complicated situation.

THE RESULT

Some American press coverage has left some readers with a feeling that the United States has not been minding the store very well in Panama and that it has done little, if anything, for the country and its people.

The man on the street in the United States, with only what he reads and hears to guide him, discusses the Panama situation from a position of unbalanced and sometimes inaccurate information. And from this, he draws his conclusions.

With the growing atmosphere of calm and a restoration of normal channels of information, the press is giving less prominence and space to the situation, but Americans are now getting a clearer idea of what had developed. And, more and more, they are learning why and how it developed.

From this, Americans will be able to draw a meaningful appraisal of the Panama crisis.

MILLIONS FLOW FROM ZONE INTO PANAMA'S ECONOMY

In dollars, $82,465,000 was paid out from the Canal Zone to Panamanians in salaries, retirement, and disability payments, and through purchases of goods and services during 1962. These figures were submitted in April 1963 by the Embassy of the United States of America to the Ministry of Foreign Relations of the Republic of Panama in response to a request for statistics by the Comptroller General of the Republic. The $82,465,000 paid from the Canal Zone to Panama does not include the Canal Zone annuity of $1,930,000 which the United States pays to Panama.

Salaries to non-U.S. citizens employed in the Canal Zone accounted for $33,025,000 of the $82,465,000. The net payments of salaries to non-U.S. citizens, the report shows, rose from $25,258,000 in 1960 to $29,750,000 in 1961 and then to $33,025,000 in 1962. This figure includes estimated net payments to all non-U.S. citizens employed in the Canal Zone by U.S. agencies, contractors and private organizations such as shipping agents, clubs, churches, oil companies, banks, and employee associations.

Retirement and disability payments by the Panama Canal organization to Panama residents rose from $2,925,000 in 1960 to $3,469,000 at the time of the report.

Direct purchases by U.S. Government agencies in the Republic of Panama totaled $11,781,000 in 1962. Purchases of goods in Panama by U.S. Government agencies brought $10,479,000 into the Republic and purchases of services furnished the Republic of Panama an additional $1,302,000.

Purchases of goods in Panama by private organizations in the Canal Zone added another $4,400,000 to the sums that went into the Republic of Panama from the Canal Zone.

Contractors' purchases in Panama of goods and services for Canal Zone projects increased to $10,668,000 in 1962 from $8-400,000 in 1960.

U.S. citizens employed in the Canal Zone spent $19,155,000 in the Republic of Panama

in the period covered by the U.S. Embassy report. Expenditures by the U.S. citizen employees of the Canal Zone showed an increase of $6,165,000 since 1960. The figure for that year totaled $12,990,000. In 1961 the U.S. citizens employed in the Canal Zone spent $15,675,000 in Panama and their purchases increased the following year to $19,155,000.

APPOINTMENT OF CARL T. ROWAN TO SUCCEED EDWARD R. MURROW, A DISAPPOINTMENT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. WAGGONNER] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WAGGONNER. Mr. Speaker, I am sure a number of Members on both sides of the aisle and in both Houses, felt the same sickening sense of disappointment I did on learning of the appointment of Carl T. Rowan to succeed Edward R. Murrow as Director of the U.S. Information Agency, the oversea voice and image of the United States.

The post calls for a man of tempered judgment, maturity and, above all else, the ability of being able to represent the United States overseas as exactly what it is, a nation of men and women who hold conflicting views on a thousand subjects and do so without acrimony. Rowan does not have this ability. He is a hater from way back. He is vicious in his contempt for anyone who holds a conservative view; malicious in his repeated attacks upon the South; venomous in his lashings of those who do not associate with his extremist views.

He is intolerant of the opinions of others and has demonstrated so on many occasions. The only segment of the United States he can or will represent abroad is the leftwing side he is on and the image will be a distorted one.

This post deserved a better man than Rowan; one with a more even disposition and a greater sense of impartiality to all the many faces of this great Nation. The Washington Star shares this point of view with me in the following editorial taken from the Sunday, January 26 issue:

ED MURROW'S SUCCESSOR

It is too bad that Edward R. Murrow has resigned as Director of the U.S. Information Agency. This is an important post. If its job is to be done successfully, the man at the top must be endowed with tact, wisdom, and good judgment. If he lacks these qualities, the story of the United States will suffer in the telling.

Ed Murrow had the requisite qualities. Unfortunately, he must now step aside so as to rest and recuperate from his lung cancer operation.

As Mr. Murrow's replacement, President Johnson has picked Carl T. Rowan, a Negro, who has served as Ambassador to Finland and as Deputy Assistant Secretary of State for Public Affairs. We are not at all sure that Mr. Rowan, despite his many talents, is qualified for the job.

In December 1961, he prepared a brash speech for delivery to a Philadelphia audience. In that speech, as released for publication, he paid his respects to Americans who did not agree with our official Congo policy. In this country, he said, "We have a conglomeration of arch conservatives—people who oppose the income tax; avowed defenders of racial segregation; opponents of fluoridation; those who want to destroy the Supreme Court, largely because of its ruling on school segregation," and so on. The inference, we suppose, is that if you were for Moise Tshombe, you were against fluoridation or against the Court. It has been said that the speech was toned down before delivery. But as written, it reflected something less than good judgment.

On January 29, 1963, the Saturday Evening Post published an article by Mr. Rowan. In our opinion, it was notable chiefly for extravagance and intemperance. This is a sample: "I am inclined to think that in our affluent society a rash of phonies and sharpies on school boards and city councils is a far more dangerous sympton of social illness than large numbers of people who openly resist the Court ruling out of ignorance, time-encrusted fear or admitted bigotry." Or this: "Only dishonorable intent, a sleazy contempt for law, and a disregard for justice permit a community to use a pupil-placement law to put two Negroes in a white school and thus cloak policies that cheat 20,000 other colored kids."

Our doubts about Mr. Rowan's qualifications for his new post are not rooted in any thought that he should not hold his own opinions. He has every right to think as he wants to think, and to speak as he wants to speak. He does not sound to us, however, like a man who can be depended on to tell the American story to its best advantage in these complex and difficult days. Mr. Murrow deserves a surer successor.

LEGISLATIVE PROGRAM OF NATIONAL ASSOCIATION OF RETIRED CIVIL EMPLOYEES

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. DULSKI] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. DULSKI. Mr. Speaker, in the early days of the 1st session of the 88th Congress, I introduced legislation to correct existing inequities in the civil service retirement system. In this connection, I wish to bring to the attention of my colleagues the legislative program of the National Association of Retired Civil Employees:

THE 1964 LEGISLATIVE PROGRAM OF THE NATIONAL ASSOCIATION OF RETIRED CIVIL EMPLOYEES

The civil service retirement system was designed and instituted for the benefit of the people of the United States. By making it possible for employees past the prime of life to withdraw from active service, the retirement system permits more frequent injection of new blood into important Government agencies.

The promise of retirement benefits enables the Government to attract and retain the best qualified persons for its varied activities. Providing the necessities of life to previous employees and their dependents permits savings in welfare services and expenditures at Federal, State, and local government levels. Extensions and liberalizations in the retirement system in the past have made it even more responsive to the needs of the people as well as to the needs of the beneficiaries.

The National Association of Retired Civil Employees is dedicated to constant improvements in this retirement system for the benefit of all of our people, including our members, all other beneficiaries of the system, and all citizens who desire a more efficient and competent public service. We believe that there are numerous ways in which additional improvements could be made in the retirement system, and we present the following summary for the careful consideration of all who are interested in a more perfect system.

1. GENERAL DISPARITIES

We find numerous instances of disparities between benefits now received by persons retired at different times with similar service and salary records, and under similar circumstances. For example, annuities starting in 1947, 1952, 1957, and 1962 for persons who retired from the same positions with the same amount of creditable service, are now widely different. The present charge for a survivor annuity for persons retired under different laws varies from 2½ to 25 percent. A more liberal recognition of extra-long service approved in 1960 has not been extended to those who retired earlier. A disability annuity "floor" introduced in 1956 is not retroactive.

We respectfully request that the Post Office and Civil Service Committees of both the Senate and House of Representatives proceed to an early study of all retirement benefits available to employees retiring currently, and compare them with related benefits now received by persons retired at various periods in the past, particularly concerning annuities, survivorship provisions and costs, disability provisions, and health benefits, with a view to developing legislation to correct any disparities that are found to exist. Furthermore, we urge prompt action in enacting legislation found to be desirable to correct such disparities.

2. PROTECTION OF EXISTING BENEFITS

We pledge our efforts to maintain all existing benefits to civil service annuitants, particularly the automatic cost-of-living provision whereby annuity increases are assured in the future whenever the Federal consumer price index advances 3 percent or more.

3. SURVIVOR BENEFITS

Survivor benefits are granted to spouses under the social security retirement system and under the railroad retirement system without any deduction from the annuities of the persons retired. Also, spouses married after retirement may receive survivor annuities under the social security and railroad retirement systems. These benefits are not comparable under the civil service retirement system where the election of a survivor annuity can be made only at the time of retirement and requires the penalty of a reduced annuity. Also the cost of a survivor annuity varies from 2½ to 25 percent of the original annuity, depending upon the period in which retirement occurred. Furthermore, many increases in original annuities are not reflected in survivor annuities, and a recent increase in the percentage of a survivor annuity was not made retroactive. As a result some surviving spouses under the civil service retirement system receive as much as 55 percent of the annuity of the deceased retiree, while others may receive much less than 50 percent of the decedent's annuity at the time of his death.

We recommend legislation providing an annuity to the surviving spouse of each retiree under the civil service retirement system, in the amount of 55 percent of such retiree's annuity at date of death, without charge to the original annuity, provided such spouse was married prior to retirement, or, if after retirement, the marriage had continued at least 3 years; and restoring full annuities to

all retirees who are now receiving reduced annuities in order to provide survivor annuities; provided further that no existing annuity or right to receive an annuity is reduced or impaired.

4. HEALTH BENEFITS

Health benefits have been provided for most annuitants, but cannot be extended under existing law to about 12,000 "forgotten widows" of former employees who died before April 1, 1948, because they did not receive their annuities until the approval of Public Law 85–465 in 1958. Health benefits have also been denied to persons retired from particular agencies (such as the Tennessee Valley Authority and Farm Credit Administration) on legal technicalities.

We recommend legislation to extend benefits under the Retired Federal Employees Health Benefits Act to all "forgotten widows" who first received annuities under Public Law 85–465, and to all others receiving annuities based on at least 12 years of service.

5. PRICE-FIXING LAWS

Numerous campaigns are underway to enact legislation to authorize price fixing by manufacturers and distributors of food, medicine, and other products needed by annuitants. Sometimes such legislation is disguised as a scheme for the protection of trademarked brands, patented items or as a "fair trade" proposal, but the real purpose is to enlist the aid of Federal and State courts in forcing retailers to charge us more money for the necessities of life. Our annuity dollars are too precious to be cheapened by legalizing such price-fixing practices.

We urge all annuitants to be alert to laws proposed in our Congress and in our State legislatures which would enable manufacturers and distributors to use our courts to enforce higher prices of food, medicine, and other products necessary for the preservation of life.

6. SOCIAL SECURITY

Many civil service annuitants are also beneficiaries under the social security retirement system, and are interested in social security legislation. We will keep alert to legislative proposals to modify or liberalize social security benefits. At the same time we will honor mandates of numerous conventions and oppose any and all efforts that might have a tendency to combine benefits under the civil service retirement system with those in the social security retirement system.

7. CREDITING LONG SERVICE

Since July 12, 1960, employees who continued in service and made contributions to the retirement fund after they had accumulated enough service to earn the maximum annuity, have received credit for such contributions to purchase additional annuities, thus giving them more than the maximum basic annuity. There are many annuitants who retired before April 1, 1948, with service in excess of 35 years who received no credit for such excess service and contributions. There are many other annuitants who retired before July 12, 1960, who received no credit for contributions beyond the time during which they earned maximum annuities.

We favor an amendment to the retirement laws to require the recomputation of annuities of persons retired before July 12, 1960, who had rendered service and made contributions to the fund after completing the service on which their annuities were based, to bring about annuity increases under a formula of one-half the ratio of such excess service to the service on which their present annuities are based.

8. DISABILITY ANNUITY FLOOR

Disability retirement is a double calamity inflicted by loss of employment forced by loss of capacity to work. This hardship is more humanely recognized in Public Law 84–854, by a disability annuity floor equal to the annuity that could be earned by service to age 60, or 40 percent of the average salary, whichever is less, but this recognition is restricted to persons retired since October 1, 1956.

We favor extension of this annuity floor of the annuity which would have been earned by service to age 60, or 40 percent of the average salary, whichever is less, to annuitants retired prior to October 1, 1956.

9. AVAILABILITY OF RETIREMENT FUND

The retirement fund was established for the purpose of paying benefits under the civil service retirement system, but a provision in Public Law 85–844, approved August 28, 1958, forbids the use of this fund for paying any increase in benefits voted thereafter by Congress. This is an unnecessary restriction and should be removed.

We favor legislation to clarify the fact that the retirement fund was established to pay retirement benefits and to remove any restrictions in such use.

10. POSTAL RATE ADVANTAGES

All labor unions and many other nonprofit associations are enjoying preferential bulk mailing rates under Federal postal laws. Our association headquarters and many of our chapters have been denied this privilege.

We will continue our efforts to obtain postal rate privileges equivalent to those granted labor unions and other nonprofit organizations.

11. GROUP LIFE INSURANCE

Group life insurance retained after retirement is a very important benefit, and should not be subject to the present rapid depreciation in value at the rate of 2 percent per month until only a fourth of the original amount remains.

We will continue to urge legislation to cut the reduction rate of group life insurance to 1 percent per month and halt the reduction when it has reached 50 percent of the original value.

12. REVISION OF FEDERAL INCOME TAX LAWS

We favor reductions in Federal and State income taxes to ease the tax burdens on our members and we will be alert to protest any tax proposals that would discriminate against civil service annuitants.

13. PANAMA CANAL CONSTRUCTION ANNUITIES

Civilian workers recruited for service in the Panama Canal Zone during the period of the construction of the canal were promised that all who remained a full period of 2 years would share in the rewards for such service. A generation later, when annuities were awarded on the basis of such service, those with 2 years but less than 3 years' service were excluded from the benefits.

We support the request of Panama Canal construction workers that Congress now redeem the promise to them by granting annuities to 2-year service persons (about 65 survivors) for the remaining portions of their lives.

14. VETERAN BENEFITS

Civil service annuitants who have had military service should have the same opportunity to qualify for pensions and other veteran benefits as annuitants under any other retirement system. We are distressed to learn of a number of cases where the recent small increases in civil service annuities will rob the recipients of greater amounts in veteran pensions. This is not the fault of retirement laws, but is a consequence of restrictions in veteran benefit laws.

While we do not plan to sponsor any legislation in the field of veteran benefits, we will be alert to legislative proposals advanced by others and we will use every reasonable opportunity to present the viewpoints of our members and other civil service annuitants concerning such proposals.

TO AMEND SOCIAL SECURITY ACT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. ST GERMAIN] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ST GERMAIN. Mr. Speaker, the bill I am introducing today amends the Social Security Act by reducing from 72 to 67 the age at which deductions on account of an individual's outside earnings will cease to be made from benefits based on such individual's wage record.

At this time when rising costs adversely affect so many of our older citizens, it seems only fair to lower by 5 years the age at which an individual receiving social security benefits will not be penalized by deductions on account of outside earnings.

My colleagues will remember that I submitted this legislation during the 87th Congress. Unfortunately, favorable action was not taken. With today's reintroduction of this measure, I again stress the need for its prompt enactment. Further delay will only prolong the plight of those senior citizens for whom social security payments and meager outside earnings are not sufficient to afford them a decent standard of living. Many of these older people can and are willing to perform extra work for increased wages. They should not have to forfeit the social security benefits they have paid for in order to do this.

I strongly urge the early passage of this legislation.

PRESIDENT'S FARM MESSAGE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. ROSENTHAL] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ROSENTHAL. Mr. Speaker, I am impressed by the recognition given the Nation's food buyers in President Johnson's farm message.

As the only member of the House Agriculture Committee representing a district which has no farmers, I have attempted to carry the consumer's views and interests into the determination of food and agriculture policies and programs.

The President's message consistently urges that farm legislation give attention to consumer welfare, and emphasizes the interdependence of the rural and urban sectors of our society.

He calls for use of our food abundance to raise the standard of living for all Americans, and points out that policies to strengthen the economy of rural and urban areas must go hand in hand.

The President looks at improved legislation related to cotton, wheat, dairy products, sugar, and potatoes in terms

of consumer and taxpayer as well as producer interests. For example, he suggests that new wheat legislation be of a type that will not increase the price of bread.

These proposals do not downgrade the farmer's role in policy and program determination, nor lessen the need to provide farm families opportunity to share fairly in the national income. Rather, they widen the responsibility for decisionmaking.

President Johnson's farm message is realistic and refreshing, and reflects concern for the growth of the entire economy.

PRESIDENT JOHNSON'S FARM MESSAGE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois [Mr. ROSTENKOWSKI] may extend his remarks at this point in the RECORD and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, after studying President Johnson's special farm message to Congress, I believe he has demonstrated a realistic understanding of the problems, and the potentials, of agriculture in today's world. His determination to tackle these problems in terms of utilizing abundance rather than encouraging scarcity should be welcomed by both the producers and consumers of food and fiber.

His recommendation for legislation extending food-for-peace authorities will be warmly endorsed across the country.

The use of our food abundance to combat human suffering, to help friendly undeveloped nations improve their living standards, and to lay the basis for future trade has always found firm support among rural and urban citizens.

Our food has perhaps done more than any word or deed to demonstrate the superiority of the free-enterprise system over Communist dictatorship.

Failure to renew the basic legislation which makes food for peace possible would remove one of the most effective weapons in the effort to promote adoption of open societies around the world.

We should follow the President's leadership in this area. His strong endorsement of the Public Law 480 food-for-peace program will be recommended not only in this country but throughout the world where it has meant so much in feeding the hungry and the needy in the underdeveloped countries.

His endorsement also means much to this country since the food-for-peace program has made such wise use of the abundance of American agriculture.

Great percentages of the production of wheat, rice, and other important commodities are used in Public Law 480 and the farmers and those who handle these commodities depend on the Public Law 480 program for part of their income and their well-being.

I hope and trust that the Public Law 480 food-for-peace program will move ahead rapidly and that it will receive again the bipartisan support it has received in the past.

Also reassuring was the President's emphasis on the common interests of rural and urban families. There has, in the past, been too much thinking in terms of the two national economies—one for the country and one for the city. Neither can afford such a division. President Johnson made it clear that "policies to strengthen the economy of rural and urban areas must go hand in hand."

While pointing out the commodity programs are basic to improvement of farm income while maintaining reasonable prices for food buyers, the President did not make them an omnibus answer to the complex questions associated with farming and rural life. His recommendations cover a broad area ranging from new uses for land and more effective utilization of food at home and abroad to marketing and multipurpose conservation projects.

It is a realistic farm message, carrying worthwhile challenges, and its implementation will enrich the whole of our society.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EDMONDSON (at the request of Mr. ALBERT), on February 1, 1964, on account of official business.

Mr. DULSKI, for Saturday, February 1, to attend launching ceremony of the U.S.S. *Casimir Pulaski* in Groton, Conn.

Mr. PEPPER (at the request of Mr. ALBERT), for today and tomorrow, January 31 and February 1, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. WILSON of Indiana (at the request of Mr. STAFFORD), for 15 minutes, on February 4, to revise and extend his remarks and include extraneous matter.

Mr. WILSON of Indiana (at the request of Mr. STAFFORD), for 15 minutes on, February 5, to revise and extend his remarks and include extraneous matter.

Mr. WILSON of Indiana (at the request of Mr. STAFFORD), for 15 minutes, on February 6, to revise and extend his remarks and include extraneous matter.

Mr. YOUNGER (at the request of Mr. STAFFORD), for 15 minutes, on February 3, to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. HOSMER and to include extraneous matter.

Mr. OLSON of Minnesota.

Mr. PHILBIN in two instances and to include extraneous matter.

(The following Members (at the request of Mr. STAFFORD) and to include extraneous matter:)

Mr. BOB WILSON.

Mr. PELLY.

(The following Members (at the request of Mr. ALBERT) and to include extraneous matter:)

Mr. ST. ONGE.

Mr. ABBITT.

Mr. JOHNSON of Wisconsin.

Mr. COLMER.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9076. An act to provide for the striking of medals in commemoration of the 200th anniversary of the founding of St. Louis; and

H.J. Res. 875. Joint resolution making supplemental appropriations for the fiscal year ending June 30, 1964, for certain activities of the Department of Health, Education, and Welfare related to mental retardation, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on January 29, 1964, present to the President, for his approval, bills of the House of the following titles:

H.R. 1959. An act to authorize the transportation of privately-owned motor vehicles of Government employees assigned to duty in Alaska, and for other purposes;

H.R. 3368. An act to authorize the Administrator of General Services to convey by quitclaim deed a parcel of land to the Lexington Park Volunteer Fire Department, Inc.;

H.R. 4801. An act to amend subsection 506(d) of the Federal Property and Administrative Services Act of 1949, as amended, regarding certification of facts based upon transferred records; and

H.R. 5377. An act to amend the Civil Service Retirement Act in order to correct an inequity in the application of such act to the Architect of the Capitol and the employees of the Architect of the Capitol, and for other purposes.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 18 minutes p.m.) the House adjourned until tomorrow, Saturday, February 1, 1964, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1597. A letter from the Chairman, U.S. Advisory Commission on Information, transmitting the 19th report of the U.S. Advisory Commission on Information, dated January

1964, pursuant to Public Law 402, 80th Congress (H. Doc. No. 211); to the Committee on Foreign Affairs and ordered to be printed.

1598. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Farm Credit Administration for the fiscal year ended June 30, 1963 (H. Doc. No. 212); to the Committee on Government Operations and ordered to be printed.

1599. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Commodity Credit Corporation, Department of Agriculture, for the fiscal year ended June 30, 1962 (H. Doc. No. 213); to the Committee on Government Operations and ordered to be printed.

1600. A letter from the adjutant general, Veterans of Foreign Wars of the United States, transmitting the proceedings of the 64th National Convention of the Veterans of Foreign Wars of the United States, held in Seattle, Wash., August 25–30, 1963, pursuant to Public Law 269, 77th Congress (H. Doc. 214); to the Committee on Armed Services and ordered to be printed with illustrations.

1601. A letter from the Secretary of Agriculture, transmitting the annual report of the Federal Crop Insurance Corporation, pursuant to the Federal Crop Insurance Act; to the Committee on Agriculture.

1602. A letter from the Assistant Secretary of the Interior, relative to stating that an adequate soil survey and land classification of the lands in the South Gila Valley unit, Yuma Mesa division, Gila project, Arizona, has been completed, pursuant to Public Law 172, 83d Congress; to the Committee on Appropriations.

1603. A letter from the Secretary of the Air Force, transmitting the report of the Secretary of the Air Force on the progress of the flight training program for the period August 1, 1962, to November 30, 1963, pursuant to Public Law 879, 84th Congress; to the Committee on Armed Services.

1604. A letter from the Acting Secretary of the Army, transmitting a report on the progress of the Army Reserve Officers' Training Corps flight training program for the period January 1 to December 31, 1963, pursuant to title 10, United States Code, section 4384; to the Committee on Armed Services.

1605. A letter from the Attorney General, transmitting a report which contains the results of a continuing review of the outstanding voluntary agreements and programs established, pursuant to section 708(e) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

1606. A letter from the Chairman, District of Columbia Armory Board, transmitting the 16th Annual Report and Financial Statements of the Board's operation of the District of Columbia National Guard Armory and the 6th Annual Report and Financial Statements of the District of Columbia Stadium for the fiscal year ended June 30, 1963, pursuant to Public Laws 80–605 and 85–300; to the Committee on the District of Columbia.

1607. A letter from the president, Potomac Electric Power Co., transmitting a copy of a balance sheet of Potomac Electric Power Co., as of December 31, 1963, pursuant to title 37, Statutes at Large, section 979; to the Committee on the District of Columbia.

1608. A letter from the President of the Board of Commissioners of the District of Columbia, transmitting a draft of a proposed bill to amend the act entitled "An act to regulate the practice of podiatry in the District of Columbia," approved May 23, 1918, as amended; to the Committee on the District of Columbia.

1609. A communication from the President of the United States, transmitting drafts of two bills: (1) "A bill to amend the Fair Labor Standards Act to extend its protection to additional employees, and for other purposes," and (2) "A bill to increase employment by providing a higher penalty rate for overtime work"; to the Committee on Education and Labor.

1610. A letter from the Secretary of Labor, transmitting a report prepared in accordance with section 4(d) of the Fair Labor Standards Act; to the Committee on Education and Labor.

1611. A letter from the Comptroller General of the United States, transmitting a report on overbuying and unnecessary overhaul costs resulting from the failure of the Army to follow the Navy's practice of separating accessories from spare reciprocating aircraft engines; to the Committee on Government Operations.

1612. A letter from the Comptroller General of the United States, transmitting a report on unnecessary costs relating to reassignment of the management responsibility for tool sets from the Department of the Army to the Defense Supply Agency; to the Committee on Government Operations.

1613. A letter from the Administrator, General Services Administration, transmitting the annual report of the Administrator of General Services for the fiscal year ending June 30, 1963; to the Committee on Government Operations.

1614. A letter from the Deputy Administrator, Veterans' Administration, transmitting the Veterans' Administration's report on its activities in the disposal of foreign excess property for the period January 1 to December 31, 1963, pursuant to Public Law 152, 81st Congress; to the Committee on Government Operations.

1615. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the Fifth Annual Report of the Advisory Commission on Intergovernmental Relations, pursuant to Public Law 86–380; to the Committee on Government Operations.

1616. A letter from the vice president, the Chesapeake & Potomac Telephone Co., transmitting a statement of receipts and expenditures of the Chesapeake & Potomac Telephone Co. for the year 1963, pursuant to chapter 1628, Acts of Congress 1904, and a comparative general balance sheet; to the Committee on the District of Columbia.

1617. A letter from the Assistant Secretary of the Interior, relative to proposed amendment No. 2 to concession contract No. I–1p–80, as amended, relating to Crater Lake Lodge, Inc., providing facilities and services in Crater Lake National Park, pursuant to 70 Stat. 543; to the Committee on Interior and Insular Affairs.

1618. A letter from the Chairman, U.S. Atomic Energy Commission, transmitting the Annual Report of the U.S. Atomic Energy Commission for 1963, pursuant to the Atomic Energy Act of 1954; to the Joint Committee on Atomic Energy.

1619. A letter from Ice, Miller, Donadio, & Ryan, transmitting the Annual Report of the Board for Fundamental Education for the year 1963, and a copy of the balance sheet as of May 31, 1963, pursuant to Public Law 507, 83d Congress; to the Committee on the Judiciary.

1620. A letter from the Secretary, Department of Health, Education, and Welfare, transmitting a report of all tort claims paid by the Department for the period January 1 to December 31, 1963, pursuant to section 2673 of title 28, United States Code; to the Committee on the Judiciary.

1621. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report relating to positions in grades GS–16, GS–17, and GS–18 of the Classification Act of 1949, as amended, pursuant to Public Law 87–793; to the Committee on Post Office and Civil Service.

1622. A letter from the Assistant Administrator for Legislative Affairs, National Aeronautics and Space Administration, transmitting the report of the National Aeronautics and Space Administration with respect to certain civilian positions established under section 1581, pursuant to section 1582, title 10, United States Code; to the Committee on Post Office and Civil Service.

1623. A letter from the Director, Federal Bureau of Investigation, U.S. Department of Justice, transmitting a report with respect to positions in the Federal Bureau of Investigation in grades 16, 17, and 18 of the general schedule of the Classification Act of 1949, as amended, pursuant to Public Law 854, 84th Congress; to the Committee on Post Office and Civil Service.

1624. A letter from the Administrative Assistant Attorney General, U.S. Department of Justice, relative to appointments to supergrade positions allotted to the Attorney General by Public Law 133, 84th Congress and Public Law 87–793, pursuant to Public Law 854 of the 84th Congress; to the Committee on Post Office and Civil Service.

1625. A letter from the Director, Administrative Office of U.S. Courts, transmitting the annual report relating to GS–17 positions allocated to this agency, pursuant to section 1105a of title 5 of the United States Code; to the Committee on Post Office and Civil Service.

1626. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated November 29, 1963, submitting a report, together with accompanying papers and illustrations, on a survey of Heron Bay, Ala., authorized by the River and Harbor Act, approved May 17, 1950; to the Committee on Public Works.

1627. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated November 27, 1963, submitting a report, together with accompanying papers and an illustration, on a letter report on Little River, N.C. and S.C., requested by a resolution of the Committee on Rivers and Harbors, House of Representatives, adopted April 30, 1940; to the Committee on Public Works.

1628. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated November 27, 1963, submitting a report, together with accompanying papers and illustrations, on a review of the reports on the Esopus Creek and tributaries, New York, in full response to a resolution of the Committee on Public Works, U.S. Senate, adopted February 15, 1951; and in partial response to resolutions of the Committee on Public Works, U.S. Senate and House of Representatives, adopted November 14, 1955, and June 13, 1956; to the Committee on Public Works.

1629. A letter from the Administrator, National Aeronautics and Space Administration, relative to a $3.9 million appropriation for fiscal year 1964 to begin construction of a NASA electronics research center to be located in the Greater Boston area; to the Committee on Science and Astronautics.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, pursuant to the order of the House of January 29, 1964, the following bill was reported on January 30, 1964:

Mr. MADDEN: Committee on Rules. House Resolution 616. Resolution for the consideration of H.R. 7152, a bill to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in education, to establish a Community Relations Service, to extend for 4 years the Commission on Civil Rights, to prevent discrimination

in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes; without amendment (Rept. No. 1119). Referred to the House Calendar.

[*Submitted Jan. 30, 1964*]

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS: Committee on House Administration. House Resolution 614. Resolution providing for printing additional copies of Senate Report No. 830; without amendment (Rept. No. 1120). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FEIGHAN: Committee on the Judiciary. S. 1488. An act for the relief of Alessandro A. R. Cacace; without amendment (Rept. No. 1121). Referred to the Committee of the Whole House.

Mr. CHELF: Committee on the Judiciary. H.R. 5306. A bill for the relief of Paul James Branan; without amendment (Rept. No. 1122). Referred to the Committee of the Whole House.

Mr. MOORE: Committee on the Judiciary. H.R. 3264. A bill for the relief of Esterina Ricupero; with amendment (Rept. No. 1123). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. O'HARA of Michigan:

H.R. 9802. A bill to increase employment by providing a higher penalty rate for overtime work; to the Committee on Education and Labor.

By Mr. BARRY:

H.R. 9803. A bill to authorize the Secretary of the Army to acquire the building constructed on the Fort Jay Military Reservation, N.Y., by the Young Men's Christian Association; to the Committee on Armed Services.

By Mr. COLLIER:

H.R. 9804. A bill to amend title II of the Social Security Act to increase the number of years which may be dropped out in computing the benefit of an individual who is forced by a Federal agency to retire at age 60 or earlier; to the Committee on Ways and Means.

H.R. 9805. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer a deduction from gross income for certain expenses incurred by him for his education or the education of his spouse or any of his dependents at a college or university, to the extent that such expenses exceed the personal exemption or exemptions to which he is entitled for the individual or individuals involved; to the Committee on Ways and Means.

By Mr. MARTIN of Massachusetts:

H.R. 9806. A bill to amend title II of the Social Security Act to permit payment of child's insurance benefits after attainment of age 18 in the case of a child attending a college or university; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 9807. A bill to amend the Federal Employees' Compensation Act so as to permit injured employees entitled to receive medical services under such act to utilize the services of optometrists; to the Committee on Education and Labor.

By Mr. RIEHLMAN:

H.R. 9808. A bill to authorize the Federal Trade Commission to require that cigarette packages and cigarette advertisements bear cautionary statements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBISON:

H.R. 9809. A bill to authorize a 3-year program of grants for construction of veterinary medical education facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUDEBUSH:

H.R. 9810. A bill to amend title 38, United States Code, to permit, for 1 year, the granting of national service life insurance to certain service-disabled World War II and Korean conflict veterans; to the Committee on Veterans' Affairs.

By Mr. SICKLES:

H.R. 9811. A bill to amend the Vocational Rehabilitation Act to eliminate economic need as an eligibility requirement for vocational rehabilitation services; to the Committee on Education and Labor.

By Mr. TEAGUE of Texas (by request):

H.R. 9812. A bill to provide for the sale and investment of Veterans' Administration mortgages in beneficial interests or participation in such mortgages, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 9813. A bill to authorize the Veterans' Administration to extend aid on account of defects in properties purchased with financing assistance under chapter 37, title 38, United States Code; to the Committee on Veterans' Affairs.

By Mr. TUPPER:

H.R. 9814. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of education (including certain travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

H.R. 9815. A bill to amend the act of June 12, 1960, relating to the construction of fishing vessels to extend it for an additional period; to the Committee on Merchant Marine and Fisheries.

By Mr. BOB WILSON:

H.R. 9816. A bill requiring military personnel of the United States to comply with the Constitution of the United States before accepting United Nations medals and service ribbons; to the Committee on Armed Services.

By Mr. ADDABBO:

H.R. 9817. A bill to authorize the payment of night differential to postal field service employees on annual or sick leave who are on regular tours of duty for which night differential is paid; to the Committee on Post Office and Civil Service.

By Mr. HALL:

H.R. 9818. A bill to amend the Internal Revenue Code of 1954 to reduce the tax on long-term capital gains realized by individuals with respect to property condemned by a governmental unit or sold as a result of the threat or imminence of such condemnation; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 9819. A bill to amend title II of the Social Security Act to reduce from 72 to 67 the age at which deductions on account of an individual's outside earnings will cease to be made from benefits based on such individual's wage record; to the Committee on Ways and Means.

By Mr. STEED:

H.R. 9820. A bill to authorize a 3-year program of grants for construction of veterinary medical education facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ELLIOTT:

H.R. 9821. A bill to amend title II of the Social Security Act to permit payment of child's insurance benefits after attainment of age 18 in the case of a child attending school; to the Committee on Ways and Means.

By Mr. MULTER:

H.R. 9822. A bill to prohibit banks from engaging in the business of personal property leasing; to the Committee on Banking and Currency.

By Mr. THOMSON of Wisconsin:

H.R. 9823. A bill to amend the Tariff Act of 1930 to impose additional duties on cattle, beef, and veal imported each year in excess of annual quotas; to the Committee on Ways and Means.

By Mr. ROOSEVELT:

H.R. 9824. A bill to amend the Fair Labor Standards Act to extend its protection to additional employees, and for other purposes; to the Committee on Education and Labor.

By Mr. BYRNE of Pennsylvania:

H.J. Res. 908. Joint Resolution to authorize the President to designate Philadelphia, Pa., as the site of a world's fair commemorating the 200th anniversary of the signing of the Declaration of Independence; to the Committee on Foreign Affairs.

By Mr. FINDLEY:

H.J. Res. 909. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HARSHA:

H. Con. Res. 258. Concurrent resolution relating to Panama Canal sovereignty treaty interpretations; to the Committee on Foreign Affairs.

By Mr. MARTIN of Nebraska:

H. Con. Res. 259. Concurrent resolution relating to Panama Canal sovereignty treaty interpretations; to the Committee on Foreign Affairs.

By Mr. BARRY:

H. Con. Res. 260. Concurrent resolution expressing the sense of the Congress with respect to permitting and encouraging participation by additional free-world countries in the activities of the Inter-American Development Bank; to the Committee on Banking and Currency.

By Mr. SCHWENGEL:

H. Con. Res. 261. Concurrent resolution authorizing the U.S. Capitol Historical Society to sell its publications in the rotunda of the Capitol; to the Committee on House Administration.

By Mr. CHAMBERLAIN:

H. Con. Res. 262. Concurrent resolution relating to Panama Canal sovereignty treaty interpretation; to the Committee on Foreign Affairs.

By Mr. JONES of Alabama:

H. Res. 618. Resolution extending the congratulations of the House upon the successful launching of the Saturn rocket; to the Committee on Science and Astronautics.

By Mr. WILLIS:

H. Res. 619. Resolution to authorize the expenditure of certain funds for the expenses of the Committee on Un-American Activities; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

Mr. MOORE presented a memorial of the House of Delegates of the West Virginia Legislature, memorializing the Congress of the United States of America to undertake a study of the import duties on beef and veal, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY:

H.R. 9825. A bill for the relief of Mrs. Vasilike Yakumithis; to the Committee on the Judiciary.

By Mr. BUCKLEY:

H.R. 9826. A bill for the relief of Mohamed Eusaph; to the Committee on the Judiciary.

By Mr. COLLIER (by request):

H.R. 9827. A bill for the relief of Sprydon Kromidas and John Kromidas; to the Committee on the Judiciary.

By Mr. DEROUNIAN:

H.R. 9828. A bill for the relief of Karina Mrosik; to the Committee on the Judiciary.

By Mr. DONOHUE:

H.R. 9829. A bill for the relief of Salvatore (Selvin) Zoppo; to the Committee on the Judiciary.

By Mr. ELLIOTT:

H.R. 9830. A bill to provide for the conveyance of certain mineral interests of the United States in property in Alabama to Fred Odom; to the Committee on Interior and Insular Affairs.

By Mr. FARBSTEIN:

H.R. 9831. A bill for the relief of Mary Ann Whitehead; to the Committee on the Judiciary.

By Mr. LEGGETT:

H.R. 9832. A bill to provide that certain service performed by employees of the Vallejo General Hospital, Vallejo, Calif., shall be considered covered employment for social security purposes; to the Committee on the Judiciary.

By Mr. LIBONATI:

H.R. 9833. A bill granting a renewal of Patent No. D-162,975, relating to a medal of the American Legion; to the Committee on the Judiciary.

H.R. 9834. A bill granting a renewal of Patent No. D-161,955, relating to a plaque of the American Legion; to the Committee on the Judiciary.

By Mr. LONG of Louisiana:

H.R. 9835. A bill for the relief of Mrs. Esther Aboud and her children, Samuel Eliahou, and Rahamin Aboud; to the Committee on the Judiciary.

H.R. 9836. A bill for the relief of Bahira Sutton, Ovadia Sutton, and Ruth Sutton; to the Committee on the Judiciary.

By Mr. MOORE:

H.R. 9837. A bill for the relief of Mrs. Mary Ahart; to the Committee on the Judiciary.

By Mr. POWELL:

H.R. 9838. A bill for the relief of Oswald E. Dempster; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 9839. A bill for the relief of Mrs. Marcelle Bean; to the Committee on the Judiciary.

By Mr. TEAGUE of Texas:

H.R. 9840. A bill for the relief of Bogoljoub Voukovitch; to the Committee on the Judiciary.

By Mr. TUPPER:

H.R. 9841. A bill for the relief of Henrik Daniel Sahakian; to the Committee on the Judiciary.

By Mr. ADDABBO:

H.R. 9842. A bill for the relief of Nikolaos Platipodis; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

673. By the SPEAKER: Petition of Henry Stoner, Avon Park, Fla., asking Congress to authorize republishing House Document No. 398, 69th Congress, 1st session, entitled "Documents Illustrative of the Formation of the Union of the American States"; to the Committee on House Administration.

674. Also, petition of Henry Stoner, Avon Park, Fla., asking Congress to pass legislation to amend title II of the Social Security Act to provide that an individual's entitlement to a child's insurance benefits shall continue after he attains age 18 for so long as he is regularly attending high school or college; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

Dr. Franz Michael's Analysis: The Sino-Soviet "Split" Is From the Common Book of Communist Warfare

EXTENSION OF REMARKS

OF

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 31, 1964

Mr. HOSMER. Mr. Speaker, there has been an extraordinary amount of speculation concerning the origins and causes of the Sino-Soviet split, but a great deal of it has taken on a sensational nature. For example, in the last year we have repeatedly heard that the split had become irrevocable, and that nothing the two powers could do would bring them back together again. While it is probably true that relations between China and the Soviet Union will never again be the same as in past years, it would be a grave and dangerous mistake to conclude that for the same reason their goals have also become antagonistic and mutually exclusive.

While Khrushchev boasted at a New Year's reception that the only difference the Soviets had with China was over how to bury the West, not whether to bury it, we seem to indicate that we prefer Khrushchev's strategy. Mr. Speaker, we will not be less defeated if we are taken over by the Khrushchev strategy as opposed to the Maoist variety.

Dr. Franz Michael, professor of Far Eastern history and government at the University of Washington, recently visiting professor at the Institute for Sino-Soviet Studies at George Washington University, and a distinguished expert on Communist affairs, has written in the fall 1963 University of Washington Alumnus one of the most penetrating analyses of the Sino-Soviet struggle which I have ever read. Dr. Michael points out:

> The fact that on given situations the Chinese Communist and Soviet policies do not always agree does not necessarily weaken the effectiveness of the overall Communist effort. In fact, it may make it more formidable.

Dr. Michael then clearly states his basic view:

> In my view, we face then not conflicting policies of rival totalitarian states, but the much more complex interrelationships of different strategies of attack all taken from the common book of Communist warfare. If the Communist attack is to become more sweeping, our defense must be equally broad.

I commend this outstanding analysis to my colleagues.

President John F. Kennedy

EXTENSION OF REMARKS

OF

HON. ALEC G. OLSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 31, 1964

Mr. OLSON of Minnesota. Mr. Speaker, John F. Kennedy as a young man turned away from other careers and chose one of public service. In this career he attained excellence. His hope was peace and toward this end he selflessly devoted his fine intellect, his vast energies—in a word, his life. An assassin's bullet snuffed out this young life and shocked and saddened the world. That this sorrow was universally shared without regard to political philosophy, national origin, or creed is the best measure of the reality he was able to give his hope for peace in the few years permitted him.

The tragic events of November 22 will be written indelibly into our history books. Beyond this, I hope, will be preserved the memory of his example as a son, as a husband, as a father, and as a public servant.

It was my privilege to know him and my honor to serve under him.

Acceptance of U.N. Medals by the Military

EXTENSION OF REMARKS

OF

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 31, 1964

Mr. BOB WILSON. Mr. Speaker, I rise to make brief remarks concerning a House joint resolution introduced by my colleague, the gentleman from California [Mr. UTT]. It provides that the military conform to the U.S. Constitution which requires that military personnel have congressional consent before accepting medals from the United Nations. President Johnson, by Executive order, has reversed the traditional constitutional review of foreign military honors. This