By Mr. SHRIVER:

H.J. Res. 960. Joint resolution calling upon the President of the United States to use full facilities of our Government to make arrangements for and to bring about delivery of an adequate supply of matzoth to key centers of Jewish life in the Union of Soviet Socialist Republics on an emergency basis, so that the Feast of the Passover which begins at sundown Friday, March 27, and ends at sundown Saturday, April 4, may be observed in keeping with 5,724 years of Jewish tradition; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H. Res. 661. Resolution providing for printing as a House document certain opinions of the Supreme Court of the United States in cases involving the offering of prayers and reading from the Bible in public schools, and for other purposes; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Massachusetts, memorializing the President and the Congress of the United States relative to the location of the NASA Electronics Research Center in the Boston area; to the Committee on Science and Astronautics.

Also, memorial of the Legislature of the State of Virginia, memorializing the President and the Congress of the United States to call a convention to propose an amendment to the Constitution of the United States, relating to restricting or limiting any State in the apportionment of representation in its legislature; to the Committee on the Judiciary.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States, relating to Federal assistance to the Hawaiian Homes Commission Act; to the Committee on Interior and Insular Affairs.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States, relating to the establishment of a National Environmental Health Week; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of Alabama:

H.R. 10551. A bill for the relief of S. Sgt. Billy F. Grimes, U.S. Air Force; to the Committee on the Judiciary.

By Mr. BARING:

H.R. 10552. A bill for the relief of Stanley K. Ott; to the Committee on the Judiciary.

By Mr. BATES:

H.R. 10553. A bill for the relief of Mrs. Khatoun Hazarchahinian; to the Committee on the Judiciary.

By Mr. BEERMANN (by request):

H.R. 10554. A bill for the relief of Lt. Col. Lloyd W. Sittler; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 10555. A bill for the relief of Dr. Julio Cesar Muniz y Sotolongo; to the Committee on the Judiciary.

By Mr. HALPERN:

H.R. 10556. A bill for the relief of Barbara Vasquez; to the Committee on the Judiciary.

By Mr. HEALEY:

H.R. 10557. A bill for the relief of Giuseppe Ippolito; to the Committee on the Judiciary.

By Mr. LESINSKI:

H.R. 10558. A bill for the relief of Manuel Kassab; to the Committee on the Judiciary.

By Mr. HOLIFIELD:

H.J. Res. 961. Joint resolution authorizing the expression of appreciation and the issuance of a gold medal to Henry J. Kaiser; to the Committee on Banking and Currency.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

810. By the SPEAKER: Petition of the secretary, American Bar Association, Chicago, Ill., petitioning consideration of their resolutions with reference to (1) amending the Railway Labor Act, and (2) relative to ratemaking procedures of the Administrative Conference of the United States; to the Committee on Interstate and Foreign Commerce.

811. Also, petition of the board of supervisors, Washington County, Fort Edward, N.Y., petitioning consideration of their resolution with reference to recognizing Whitehall, Washington County, as birthplace of U.S. Navy; to the Committee on the Judiciary.

812. Also, petition of Thalia S. Woods, chairman, Spencer County Democratic Women's Club of Indiana, Gentryville, Ind., petitioning consideration of their resolution with reference to requesting an amendment to the Constitution of the United States relating to the succession of the Office of President and Vice President; to the Committee on the Judiciary.

813. Also petition of the mayor of Nakazato-Son, Okinawa, petitioning consideration of a resolution with reference to speedy settlement of reparation before the Japanese Peace Treaty; to the Committee on Foreign Affairs.

814. Also, petition of Herman Q. Guerrero, legislative secretary, Mariana Islands District Legislature, Saipan, Mariana Island, petitioning consideration of their resolution with reference to requesting the United Nations Trusteeship Council to exercise its good office in assisting in the relaxation of immigration laws affecting entry of Trust Territory citizens to the continental United States or its territories; to the Committee on Foreign Affairs.

SENATE

MONDAY, MARCH 23, 1964

(Legislative day of Monday, March 9, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. METCALF].

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Almighty God, Father of all men, as the gavel falls for another week of challenge mid all the traffic of life's busy ways, we turn unfilled to Thee. From the framing of laws and the forming of policies holding in their reach the woe or the weal of the commonwealth and of the nations of all the earth, we would pause amidst the shattering events and tempestuous emotions of our times, at this inner sanctuary where the world's angry voices die, and Thou alone art real.

In spite of temporary rebuffs, give us to see, this Holy Week, that wherever hatred gives way to love, wherever prejudice is changed to understanding, wherever pain is soothed and ignorance banished, there Thy banners go. We ask it in the name of Him who has transformed a cross of defeat into a crown of triumph, and whose kingdom has no frontiers. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Saturday, March 21, 1964, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore:

H.R. 950. An act to amend the Internal Security Act of 1950;

H.R. 1759. An act for the relief of Rebecca K. Clayton;

H.R. 7967. An act for the relief of certain individuals employed by the Department of the Air Force at Hickam Air Force Base, Hawaii;

H.R. 8280. An act for the relief of Mrs. Annette M. Rasor and Dr. Robert W. Rasor; and

H.R. 8930. An act for the relief of certain employees of the Bureau of Indian Affairs.

TRANSACTION OF ROUTINE BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be the usual morning hour, with statements not to exceed 3 minutes in length.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING DURING SENATE SESSION TOMORROW

On request of Mr. MANSFIELD, and by unanimous consent, the Committee on Appropriations was authorized to meet during the session of the Senate tomorrow.

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PUBLICATION OF NOTICE OF PROPOSED DISPOSITION OF CERTAIN PIG TIN

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of a proposed disposition of approximately 98,000 short tons of pig tin now held in the national stockpile (with an accompanying paper); to the Committee on Armed Services.

REPORT ON SHIPMENTS UNDER SHORT-TERM EXPORT CREDIT INSURANCE PROGRAM

A letter from the Secretary, Export-Import Bank of Washington, Washington, D.C., reporting, pursuant to law, that shipments to Yugoslavia insured by the Foreign Credit Insurance Association and the Export-Import Bank under the short-term export credit insurance program, totaled $20,393, for the month of February 1964; to the Committee on Banking and Currency.

REPORT ON FOLLOWUP REVIEW OF FAILURE TO USE EXCESS SPARE PARTS AND ASSEMBLIES IN AIRCRAFT PRODUCTION

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the followup review of the failure to use excess spare parts and assemblies in aircraft production, Department of the Navy, dated March 1964 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the Mariana Islands District Legislature; to the Committee on the Judiciary:

"RESOLUTION 37–1964

"Resolution relative to respectfully requesting and memorializing the United Nations Trusteeship Council to exercise its good office in assisting in the relaxation of immigration laws affecting entry of trust territory citizens to the continental United States or its territories.

"Whereas, by an act of the U.S. Congress in the year 1962, the President of the United States has approved the lifting of visa and passport requirements for traveling to the continental United States or its territories; and

"Whereas the demand for passports and other official traveling documents have caused delays, discomforts, and inconveniences on the part of the concerned; and

"Whereas it is strongly felt the relaxing of the existing strict restrictions of immigration policy, will, to an extent, progress the economic, political, social, and educational status of the inhabitants of the Pacific trust islands: Now, therefore, be it

"Resolved by the Mariana Islands District Legislature, That the United Nations Trusteeship Council be respectfully requested and memorialized to exercise its good office in assisting in the relaxation of immigration laws affecting entry of trust territory citizens to the continental United States or its territories; and be it further

"Resolved, That the President certify to and the legislative secretary attest the adoption hereof, and that copies of same be thereafter transmitted to the President of the United Nations Trusteeship Council, President, U.S. Senate, Speaker, U.S. House of Representatives, U.S. Department of the Interior, and to the High Commissioner of the Trust Territory of the Pacific Islands.

"Passed by the Mariana Islands District Legislature, February 10, 1964.

"OLYMPIO T. BORJA,
"President.
"HERMAN Q. GUERRERO,
"Secretary."

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION

"Whereas the economic progress of the United States is dependent on the health of its citizens; and

"Whereas the health of its citizens is dependent on the protection, preservation, and development of the natural resources of the United States as well as their expansion for domestic and recreational uses; and

"Whereas the protection, development, and use of the natural resources is directly dependent upon the practice of good environmental sanitation by each citizen, each industry, and each governmental agency; and

"Whereas the establishment of a National Environmental Health Week will help alert each citizen to healthful sanitation practices and procedures in his home and community: Now, therefore, be it

"Resolved by the House of Representatives of the Second Legislature of the State of Hawaii, Budget Session of 1964 (the Senate concurring), That the Congress of the United States be and it is hereby respectfully requested to establish the last week of June in this and succeeding years as National Environmental Health Week; and be it further

"Resolved, That copies of this house concurrent resolution be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to the Senators and Representatives to Congress from the State of Hawaii.

"We hereby certify that the foregoing concurrent resolution was this day adopted by the House of Representatives of the Second Legislature of the State of Hawaii, Budget Session of 1964.

"ELMER F. CRAVALHO,
"Speaker, House of Representatives.
"SIGNETO KANIWOH,
"Clerk, House of Representatives.

"We hereby certify that the foregoing concurrent resolution was this day adopted by the Senate of the Second Legislature of the State of Hawaii, Budget Session of 1964.

"NELSON K. DOI,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate."

A resolution of the Senate of the State of Hawaii; to the Committee on Labor and Public Welfare:

"Whereas the Hawaiian Homes Commission Act of 1920 was enacted by the Federal Government for the purpose of rehabilitating the people of Hawaiian ancestry in the State of Hawaii; and

"Whereas the growth and expansion of the Hawaiian homes programs since that date have not been maintained and fostered in step with the growth and development of the State of Hawaii, economically, socially and in other respects; and

"Whereas since the inception of the act minimum Federal aid has been made available in furthering the primary purpose of this act; and

"Whereas the people of Hawaiian ancestry and the programs are in need of Federal assistance to bridge the past and to immediately provide for the preservation and expansion of the Hawaiian homes programs; and

"Whereas this assistance is urgently needed to provide assistance for education medical care, agricultural assistance, and community development within the Hawaiian homes programs: Now, therefore, be it

"Resolved by the Senate of the Second Legislature of the State of Hawaii, Budget Session of 1964, That the Congress of the United States be and is hereby respectfully requested to enact such legislation as will make it possible to provide assistance for the Hawaiian homes programs under any existing Federal program that sponsors, assists, subsidizes or makes available Federal assistance to aid in the fields of education, medical aid, public housing, agriculture and development of the Hawaiian homes lands; and be it further

"Resolved, That the members of the congressional delegation from Hawaii be and it is hereby respectfully requested to sponsor and introduce legislative programs to effectuate the intent of this resolution in the event that the existing Federal programs do not meet the particular needs of the Hawaiian homes programs; and be it further

"Resolved, That certified copies of this resolution be forwarded to the Honorable CARL HAYDEN, President pro tempore of the Senate and the Honorable JOHN W. MCCORMACK, Speaker of the House of the United States Congress and to the Honorable HIRAM L. FONG, the Honorable DANIEL K. INOUYE, the Honorable THOMAS P. GILL and the Honorable SPARK M. MATSUNAGA, Hawaii's congressional delegation.

"We hereby certify that the foregoing resolution was this day adopted by the Senate of the Second Legislature of the State of Hawaii, Budget Session of 1964.

"NELSON K. DOI,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate."

Petitions signed by Seigen Ukumoto, chairman of Nakazato-Son General Assembly, and Shuko Gima, mayor of Nakazato-Son, both of the island of Okinawa, praying for a quick solution of the prepeace treaty compensation issue; to the Committee on Armed Services.

A resolution adopted by the American Bar Association, relating to ratemaking procedures of the Administrative Conference of the United States; to the Committee on Commerce.

A resolution adopted by the American Bar Association relating to that association's support of legislation to amend the Railway Labor Act; to the Committee on Labor and Public Welfare.

A petition signed by Dwight W. Culver, and sundry other students and the faculty of St. Olaf College, Northfield, Minn., praying for the enactment of House bill 7152, the civil rights bill, as passed by the House; ordered to lie on the table.

REPORT ENTITLED "ORGANIZATION OF FEDERAL EXECUTIVE DEPARTMENTS AND AGENCIES"—REPORT OF A COMMITTEE (S. REPT. NO. 966)

Mr. MCCLELLAN. Mr. President, as chairman of the Committee on Government Operations, I am filing a report, on behalf of the committee, on the Organization of Federal Executive Departments and Agencies. The report depicts the number of Federal employees assigned to the Executive Office of the President, the 13 departments and to the 50 independent agencies of the Federal Government, as of January 1, 1964, together with details regarding organizational changes effected during the past calendar year.

The 2,465,805 employees reported by the executive branch of the Government compares to 2,462,262 reported on January 1, 1963, an increase of 3,543 during the calendar year 1963. For security reasons no employees of the Central Intelligence Agency are reported.

The 13 executive departments reported total net increases of 57,643 in 1961 and 32,342 in 1962, but showed a net decrease of 2,730 paid civilian employees in 1963. The independent agencies showed net increases totaling 17,955 in 1961, 11,127 in 1962, and 6,261 since January 1, 1963. This reflects a total of 122,598 more employees in the executive branch of the Government, exclusive of the Executive Office of the President, than was reported on January 1, 1962.

A total of 2,465,805 employees reported by the executive branch represents an increase of 504,776 over the number employed as of January 1, 1950, the low since World War II, and prior to the Korean conflict. During the last 17 years, beginning on January 1, 1947, when this committee released its first report, there has been an overall net increase of 203,180 employees.

The net decrease of 2,730 in the departmental total during 1963 was due to the reduction of 23,029 civilian personnel reported by the Department of Defense. Increases were reported by the other departments—except Justice, which had a reduction of 131—as follows: Post Office, 6,745; Health, Education, and Welfare, 4,290; Interior, 3,521; Agriculture, 1,659; State, 1,429; Commerce, 1,206; Treasury, 1,131; and Labor, 449.

The independent agencies reported a net increase of 6,261 in 1963, which with the increases of 11,127 in 1962 and 17,955 reported in 1961, aggregate a total of 35,343 new employees during the past 3 calendar years. In 1963, the largest increases were reported by the National Aeronautics and Space Administration, 4,505; the General Services Administration, 1,139; the U.S. Information Agency, 525; the Housing and Home Finance Agency, 368; the Atomic Energy Commission, 287; and the Federal Aviation Agency, 255. There was a total increase of 1,397 reported by 29 other agencies. Fourteen of the executive agencies reported decreases in personnel during calendar year 1963, headed by the Tennessee Valley Authority, of 1,653. The remaining 13 reported a combined total decrease of 562 employees.

As of January 1, 1964, 168,078 civilian employees of the executive branch were engaged in activities outside the United States, of which 55,692 were American citizens and 112,386 were nationals of other countries. This was a decrease of 5,831 American citizens and 269 foreign nationals under the number reported on January 1, 1963.

The employment statistics contained in the report were developed by the committee staff, based on information furnished by officials of the executive branch, to accompany a chart outlining the organization of the major components of the Government, both of which are being released by the committee today.

The report outlines a number of internal reorganizations effected by some of the departments and agencies during 1963. The most extensive were reported by the Departments of Agriculture, Commerce—including a complete reorganization of the National Bureau of Standards—Defense—primarily in the Office of the Secretary of Defense—Health, Education, and Welfare, and Labor. The General Services Administration, the Housing and Home Finance Agency, the National Aeronautics and Space Administration, and the Veterans' Administration also reported a number of reorganization actions.

A table prepared by the committee accompanies the report. The table is made available to the public, and we have found from past experience that it is much in demand by people throughout the country who are interested in keeping abreast of employment in the departments and agencies of the Government. A publication of the table has caused many demands to be made upon the committee for copies of the annual report.

Mr. President, I ask unanimous consent that an additional 5,000 copies of the report be printed so as to accommodate the requests that the committee will receive for it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HUMPHREY:

S. 2676. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

(See the remarks of Mr. HUMPHREY when he introduced the above bill, which appear under a separate heading.)

By Mr. ROBERTSON (by request):

S. 2677. A bill to amend section 5(d) of the Home Owners' Loan Act of 1933, as amended; to the Committee on Banking and Currency.

(See the remarks of Mr. ROBERTSON when he introduced the above bill, which appear under a separate heading.)

By Mr. MAGNUSON:

S.J. Res. 163. Joint resolution authorizing the expression of appreciation and the issuance of a gold medal to Henry J. Kaiser; to the Committee on Banking and Currency.

INCORPORATION OF GOLD STAR WIVES OF AMERICA

Mr. HUMPHREY. Mr. President, I introduce, for appropriate reference, a bill to incorporate the Gold Star Wives of America.

We in Minnesota are proud of the fact that the national president, Mrs. Joy Dove, lives in Minneapolis. Similar legislation has been introduced in the House of Representatives, and I am most hopeful that the Senate will be able to act on this measure in the 88th Congress.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2676) to incorporate the Gold Star Wives of America, introduced by Mr. HUMPHREY, was received, read twice by its title, and referred to the Committee on the Judiciary.

INCREASED POWERS OF FEDERAL HOME LOAN BANK BOARD

Mr. ROBERTSON. Mr. President, I introduce, for appropriate reference, an administration bill to increase the powers of the Federal Home Loan Bank Board. The bill is introduced at the request of the Chairman of the Federal Home Loan Bank Board, and I ask unanimous consent that his letter be printed in the RECORD, together with an analysis of the bill.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter and analysis will be printed in the RECORD.

The bill (S. 2677) to amend section 5(d) of the Home Owners' Loan Act of 1933, as amended, introduced by Mr. Robertson, by request, was received, read twice by its title, and referred to the Committee on Banking and Currency.

The letter and analysis presented by Mr. ROBERTSON are as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., March 17, 1964.

THE PRESIDENT OF THE SENATE.

SIR: There is transmitted herewith a draft for a bill to amend section 5(d) of the Home Owners' Loan Act of 1933.

The provisions of the draft are summarized and explained in an analysis which is transmitted herewith.

The Bureau of the Budget has advised that from the standpoint of the administration's program there is no objection to the transmission of the bill to the Congress.

Sincerely yours,

JOSEPH P. MCMURRAY,
Chairman.

ANALYSIS OF DRAFT OF FEBRUARY 14, 1964, PROPOSING AMENDMENT OF SECTION 5(d) OF THE HOME OWNERS' LOAN ACT OF 1933, AS AMENDED

The proposed amendment departs from the provisions of sections 5(d)(1) and 5(d)(2) of the Home Owners' Loan Act, as amended, in several important particulars. Thus, it would provide for—

(1) The commencement of proceedings by the board in all cases involving alleged violations of law, rules or regulations, or unsafe or unsound practices, by the issuance of a notice of charges stating the facts constituting the violations or practices and setting a hearing to determine whether a cease-and-desist order should issue against the association (par. (2)(A));

(2) The issuance of temporary cease-and-desist orders in cases where the board determines that the continuation of the alleged violations or practices specified in the notice of charges could cause insolvency or substantial dissipation of assets or earnings of the association or impairment of its capital, or could otherwise seriously prejudice the interests of its shareholders; and such temporary cease-and-desist orders would, unless stayed or set aside by a U.S. district court, remain in effect pending the completion of the administrative hearing and until such time as the board dismisses the charges against the association, or, if a cease-and-desist order is issued by the board after the hearing, until the effective date of any such order (par. (2)(C)(1));

(3) The suspension, and removal after a hearing, of directors and officers from office in a Federal association (par. (3));

(4) The ex parte appointment by the board of a conservator or receiver upon grounds similar to those set out in the present section 5(d)(2) of the HOLA (but also including as a ground the violation of a cease-and-desist order which has become final), subject to the right of the association to bring an action in a U.S. district court for the removal of such conservator or receiver (par. (4)(A));

(5) Judicial review of board orders issued after hearing by the filing of a petition for review in a U.S. court of appeals (par. (5)(B)).

The following analysis covers the major provisions of the proposed amendment:

Paragraph (1): Under this paragraph, the board would be authorized to enforce section 5 of the Home Owners' Loan Act and rules and regulations made thereunder. The board would also be authorized to act in its own name and through its own attorneys in any action or proceeding in which it is a party or in which it is interested.

However, the draft omits the clause in the present section 5(d)(1) authorizing the board "to sue and be sued in any court of competent jurisdiction," a provision usually found in a statute defining the powers of a government corporation rather than an unincorporated agency such as the board. While the legal effect of this provision has not been judicially resolved so far as the board is concerned, omission of the clause will eliminate existing doubts as to its meaning and effect (i.e., whether it is a jurisdictional or a venue provision, or whether it merely renders the board capable of suing and being sued in its own name in any court having jurisdiction over the parties and over the subject matter of the action), and will also avoid the possibility that the courts may hold it to be a general waiver of sovereign immunity, thereby making the board amendable to suits which may not be maintained against other unincorporated Government agencies performing purely governmental functions. Elimination of the "sue and be sued" clause would not, of course, affect whatever right any individual or association, aggrieved by agency action, would have to sue members of the board in their individual capacity for declaratory judgment or injunctive relief for alleged arbitrary, capricious, or illegal action. And, except as otherwise provided in the draft, the board would still be subject to suit by any Federal association "with respect to any matter under this section (5) or regulations thereunder"—but not as to "any other law or regulation" as is now provided in section 5(d)(1) of the Home Owners' Loan Act—in the U.S. district court for the district in which its home office is located, or in the U.S. District Court for the District of Columbia.

Paragraph (2): This paragraph provides for the issuance of cease-and-desist orders after notice and opportunity for hearing, and for the issuance of temporary cease-and-desist orders in advance of a hearing in cases where charges of a serious nature are brought against an association.

Under subparagraph (A), the board would, in all cases involving alleged violations of law, rules or regulations, or unsafe or unsound practices, issue a notice of charges against the offending association. The notice would contain a statement of the facts constituting such violations or practices, and set a hearing to determine whether a cease-and-desist order should issue against the association. Such hearing would be fixed for a date not later than 60 days after service of the notice unless a later date is requested by the association. Failure of the association to appear at the hearing by a duly authorized representative would be deemed to be consent to the issuance of the order. If, upon the hearing record, the board determined that any of the violations or practices specified in the notice of charges had been established, it would issue a cease-and-desist order requiring the association and its directors, officers, employees, and agents to cease and desist from such violations or practices, and, further, to take affirmative action to correct the conditions resulting from the same.

The opportunity for a hearing under the APA would be the only remedy afforded to an association charged with violations of law, rules or regulations, or unsafe or unsound practices. This would, in effect, eliminate the right a Federal association now has when proceedings are instituted by the board under the present section 5(d)(1) to elect to defend itself in an administrative hearing, or to apply to the proper U.S. district court for declaratory judgment or injunctive or other relief with respect to such controversy.

A cease-and-desist order would, under subparagraph (B), become effective at the expiration of 30 days after service upon the association and would remain effective and enforcible except to such extent as it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.

Subparagraph (C)(i) provides for the issuance of a temporary cease-and-desist order in advance of an administrative hearing, requiring an association to cease and desist from the violations or practices specified in the notice of charges issued pursuant to subparagraph (B) of paragraph 2. The board would have discretionary authority to issue a temporary cease-and-desist order whenever it determined that the continuation of such violations or practices could cause insolvency or substantial dissipation of assets or earnings of the association or impairment of its capital, or could otherwise seriously prejudice the interests of its shareholders. The order would become effective upon service upon the association and would remain effective and enforcible pending the completion of the administrative proceedings pursuant to the notice of charges and until such time as the Board dismissed the charges, or, if a cease-and-desist order is issued against the association, until the effective date of any such order.

However, an association could, within 10 days after service of a temporary cease-and-desist order, apply to the proper U.S. district court for an injunction restraining or suspending the enforcement, operations, or effectiveness of the order. Paragraph (2)(C)(ii). And in case of a violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the board could apply to the proper U.S. district court or the U.S. court of any territory for an injunction to enforce such order; and, if the court determines that there has been such violation or threatened violation or failure to obey, it would be mandatory for the court to issue such injunction as may be requested by the board. Paragraph (2)(C)(iii).

Paragraph (3): This paragraph would endow the board with authority to suspend, and to remove after a hearing, directors and officers from office in Federal associations.

Where a director or officer continued to violate a cease-and-desist order which has become final, after having been warned by the board not to continue such violation, the board could, by written notice served upon such director or officer, suspend him from office and give notice of its intention to remove him from office. Subparagraph (A)(i).

Under subparagraph (A)(ii), the board could also serve a director or officer with notice of its intention to remove him from office in cases where he has (a) committed any violation of law, rules or regulation, or engaged in any unsafe or unsound practice, and continued such violation or unsafe or unsound practice after having been warned by the board not to do so, or (b) committed or engaged in any act, omission, or practice constituting a breach of his fiduciary duty as such director or officer, whether or not he thereby realized any pecuniary profit or secured any demonstrable personal gain or advantage as the result of such breach of fiduciary duty.

The board's notice of intention to remove from office, issued under subparagraph (A)(i) or (A)(ii), would contain a statement of the facts constituting grounds therefor, and would fix a time for a hearing not later than 60 days after service of the notice unless a later date is requested by the director or officer. Failure of the director or officer to appear at the hearing in person or by a duly authorized representative would be deemed to be consent to the issuance of an order of removal. If the board found, upon the hearing record, that any of the grounds specified in the notice had been established, the board could issue an order removing such director or officer from office. In addition, the board could, in connection with any such order, provide for the suspension or invalidation of any or all proxies, consents, or authorizations held by such director or officer in respect of any voting rights in such association. Subparagraph (B)(i).

A suspension of a director or officer under paragraph (3)(A)(i) would become effective upon service of the notice provided for in that paragraph, and would remain in effect until the suspension was terminated or set aside by the board, or the director or officer was removed from office. Subparagraph (B)(ii). But an order of removal from office, issued after a hearing under subparagraph (B)(i), would become effective at the expiration of 30 days after service, at which time such director or officer would cease to be a director or officer of the association. Subparagraph (B)(iii).

Under subparagraph (C), it would be a misdemeanor punishable by fine or imprisonment, or both, for any director or officer, or former director or officer, against whom there is outstanding and effective an order of removal, which is an order which has become final, and who, with knowledge of such order, (i) participates in any manner in the management of the association, or solicits or procures proxies in respect of any voting rights in the association, or votes or attempts to vote any such proxies, or (ii), without the prior written approval of the board, serves as a director, officer, or employee of any institution the accounts of which are insured by the FSLIC.

Subparagraph (D) would prohibit any person, without the prior written consent of the board, from serving as a director, officer, or employee of a Federal association who has been convicted of a criminal offense involving dishonesty or breach of trust. For each willful violation of this prohibition, the association would be subject to a penalty of $100 a day which the board could recover for its own use.

Subparagraph (E) defines the term "violation" as used in paragraph (3) of the proposed subsection, and the terms "cease-and-desist order which has become final" and "order which has become final," as used in the draft.

Paragraph (4): Subparagraph (A) provides that the board may ex parte and without any requirement of notice, hearing, or other action, appoint a conservator or receiver for an association upon any one or more of the following grounds: (i) insolvency in that the association's assets are less than its obligations to its creditors and others, including its members; (ii) substantial dissipation of assets or earnings due to

any violation or violations of law or regulation or to any unsafe or unsound practice or practices; (iii) an unsafe or unsound condition to transact business; (iv) willful violation of a cease-and-desist order which has become final; and (v) concealment of books, papers, records, or assets of the association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the board. Ground (i) is the same as ground (i) of the existing statute, and ground (v) is similar to existing ground (iii). Ground (ii) combines existing ground (ii) ("violation of law or of a regulation") and existing ground (iv) ("unsafe or unsound operation") but changes the concept of unsafe or unsound operation to unsafe or unsound practices and make both factors dependent upon whether the violation or the unsafe or unsound practice has resulted in the substantial dissipation of assets or earnings. Ground (iii) is new, but identical or similar provisions appear in a number of State laws. Ground (iv) is also an innovation to the present provisions of the statute.

The board would have exclusive power and jurisdiction to appoint a conservator or receiver. However, upon such appointment upon any of the grounds mentioned in subparagraph (A), the association could, within 30 days thereafter, bring an action in the proper U.S. district court for an order of removal. This would be the only remedy available to an association to challenge the appointment of a conservator or receiver.

Subparagraph (B) would authorize the board, without any requirement of notice, hearing or other action, to appoint a conservator or receiver in the event that (i) the association, by resolution of its board of directors, or of its members, consents to such appointment, or (ii) the association's Federal home loan bank membership, or its status as an insured institution, is terminated.

The last sentence of subparagraph (B) would deprive any court, except to the extent authorized by the provisions mentioned above as to proceedings in district courts for review of appointments made under paragraph (4)(A), of jurisdiction to entertain any action for the removal of any conservator or receiver, or to restrain the exercise of the powers or functions of a conservator or receiver except at the instance of the board.

As under the present statute, the board could appoint only the Federal Savings and Loan Insurance Corporation as receiver for a Federal association. By providing in subparagraph (C) that the appointment of a receiver constitutes a "default" within the meaning of title IV of the National Housing Act, the FSLIC would be required upon such appointment to make payment of insured accounts under section 405(b) of that act.

The board would be authorized by subparagraph (D) to make rules and regulations for the reorganization, consolidation, merger, liquidation, and dissolution of associations and for associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. Also, the monetary penalty for refusing to comply with a demand of a conservator or receiver for possession of the property, business, or assets of an association would be increased from the present fine of not more than $1,000 to not more than $5,000. The punishment by imprisonment for not more than 1 year, alternatively to or concurrently with punishment by fine, would be the same as under the present section 5(d)(2).

Paragraph (5): The provisions of this paragraph relate to hearings and judicial review of orders issued by the board after hearing.

Subparagraph (A) provides that hearings provided for in subsection (d) shall be held in the Federal judicial district or in the territory in which the home office of the association is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the APA. The board would be required to render its decision in each case within 90 days after the parties have been notified that the case has been submitted to the board for final decision, and to serve each party with an order or orders consistent with the provisions of subsection (d). Also, the board could, unless a petition for review is timely filed as provided in paragraph (5)(B), and thereafter until the record in the proceeding is filed in the reviewing court, modify, terminate, or set aside any such order; and upon the filing of such record, the board could modify, terminate, or set aside any such order with permission of the court.

Under subparagraph (B) of paragraph (5), any party to the proceeding or any person who is subject to a cease-and-desist order could obtain a review of the board's order by filing in the court of appeals of the United States for the circuit in which the home office of the association is located, or in the Court of Appeals for the District of Columbia Circuit, within 30 days after service of such order, a petition praying that the order be modified, terminated, or set aside. Upon the filing of the record in the proceeding, such court would have exclusive jurisdiction to affirm, modify, terminate, or set aside any such order, and its judgment and decree would be final subject to review by the Supreme Court upon certiorari as provided in 28 U.S.C. 1254.

Review of the board's orders would be placed in the court of appeals (rather than in the district courts as under the present statute) in line with numerous other statutes governing judicial review of agency action and in order that such review may be expedited. And the provision in subparagraph (B) of paragraph (5) that review shall be had as provided in the APA means that the order under review must be upheld if the court of appeals finds that it is supported by substantial evidence in the record. This is the customary standard governing review of agency action as distinguished from the present requirement in section 5(d) that review by the court shall be upon the weight of the evidence.

Subparagraph (C) provides that the commencement of proceedings for judicial review under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the board. Since both a cease-and-desist order issued pursuant to paragraph (2)(B), and an order of removal from office issued pursuant to paragraph (3)(B)(i), do not become effective until after the expiration of 30 days after service, the association or the director or officer concerned could apply to a court of appeals within such 30-day period for a stay of the order.

Paragraph (6): This paragraph would authorize the board to apply for the enforcement of its orders to the U.S. district court or the U.S. court of any territory within the jurisdiction of which the home office of the association is located. But, except as otherwise provided in the draft, no court would have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order issued by the board under subsection (d) of the draft, or to review, modify, suspend, terminate, or set aside any such order.

Paragraph (7): This paragraph would authorize the board or any member thereof or a designated representative of the board to administer oaths and to issue and to revoke or quash subpenas and subpenas duces tecum. The board would also be authorized to make rules and regulations with respect to such proceedings. Jurisdiction for the enforcement of any such subpenas would be conferred upon the proper U.S. district court or the U.S. court of any territory. All expenses of the board or of the FSLIC in connection with subsection (d) would be considered as nonadministrative expenses.

Paragraph (8): This paragraph simply provides that any service required or authorized to be made by the board under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the board may by regulation or otherwise provide.

Paragraph (9): This paragraph provides that the proposed amendment to subsection (5)(d) shall not be applicable to proceedings for the appointment of a conservator or receiver pending immediately prior to the effective date of the amendment or to any supervisory representative in charge, conservator or receiver then in office, or in certain other situations stated in paragraph (9).

INCREASE OF AMOUNT AUTHORIZED TO BE APPROPRIATED TO CARRY OUT PROVISIONS OF THE ACCELERATED PUBLIC WORKS ACT (PUBLIC LAW 87-658)—ADDITIONAL COSPONSORS OF AMENDMENT NO. 469

Under authority of the order of the Senate of March 13, 1964, the names of Mr. ENGLE, Mr. METCALF, Mr. MORSE, and Mrs. NEUBERGER were added as additional cosponsors of amendment No. 469, intended to be proposed to the bill (S. 1121) to increase the amount authorized to be appropriated to carry out the provisions of the Accelerated Public Works Act (Public Law 87-658), submitted by Mr. GRUENING on March 13, 1964.

QUESTIONS AND ANSWERS WITH REGARD TO CIVIL RIGHTS

Mr. HUMPHREY. Mr. President, in recent days, I have observed an increasing number of paid advertisements in various newspapers throughout the country attacking the civil rights bill, H.R. 7152; these advertisements have contained, almost in whole, vicious and distorted half-truths and characterizations. I am pleased, however, to note that Robert S. Boyd, the distinguished journalist with the Chicago Daily News, has taken upon himself the task of setting the record straight and answering some of the most glaring misrepresentations.

The truth is many times less sensational than the fruit of a wild and undisciplined imagination. However, it is encouraging to reflect upon Lincoln's wisdom that the people cannot be fooled all the time. With reporting of the caliber of Robert S. Boyd, the risk of anyone being fooled in this instance, is reduced appreciably.

I ask unanimous consent that the entire article entitled "Questions, Answers to Fears Stirred by Civil Rights Bill" be printed in the RECORD as this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Minneapolis (Minn.) Star, Mar. 18, 1964]

QUESTIONS, ANSWERS TO FEARS STIRRED BY CIVIL RIGHTS BILL

(By Robert S. Boyd)

WASHINGTON, D.C.—The civil rights bill now grinding through Congress has given

rise to widespread fears and misunderstandings.

Congressional mail shows that many whites—Northern as well as Southern—believe the bill will take away some of their rights for the benefit of Negroes.

An intensive publicity campaign by opponents of the bill has added to these fears.

The questions that follow are based on a charge made in a newspaper advertisement, brochure or statement put out by opponents of the bill, notably the Coordinating Committee for Fundamental American Freedoms and its legal expert, Mississippi lawyer, John Satterfield, a former president of the American Bar Association. The committee gets most of its money from Mississippi.

The replies represent the position of the Justice Department.

The explanatory material is based on interviews with Satterfield and civil rights experts in the Justice Department.

Will the civil rights bill destroy your right to sell or rent your home to whom you please?

No. The bill will have no effect on discrimination in private housing.

The President, apparently, already has the power to ban racial discrimination in housing by executive order. President John F. Kennedy 18 months ago forbade discrimination by apartment houseowners and real estate developers who get Federal financing. This order has not yet been tested in the courts.

President Johnson might, if he wished, extend the order to cover private homes with FHA or VA insured mortgages.

The Justice Department says the civil rights bill adds nothing to this existing Presidential power. In fact, a sentence in the bill specifically denies that it applies to Government-insured home loans.

Opponents of the bill argue it would indirectly uphold the President's claim of authority to issue executive orders in this field.

Will the bill cost you your job, your seniority or your promotion to make way for a Negro?

With one exception, no. The bill forbids racial discrimination on the job, but grants Negroes no special privileges.

White fears of being displaced by Negroes stem from the "equal employment opportunity" section of the bill, which requires companies and unions to treat workers of both races on the same basis.

But no preference is granted to either race. There is no requirement that a company or a union take on a certain number of Negroes to achieve a racial "mix" or "balance." All that is required is that an employer, or a union, not turn down an otherwise qualified man because he is a Negro.

Passing over a white man to give preference to a Negro is banned, just as is the reverse.

The exception arises in the case of seniority—where separate white and Negro unions, or separate seniority lists have been maintained.

During the process of merging the locals, a worker who was No. 75 on the all-white list, for example, might find himself No. 82 on the combined list.

Will the bill require businessmen to keep records of the race of employees and job applicants? Will they have to let Federal inspectors check their operations?

Yes. Without records and inspection, the Government could not enforce this act. The records are necessary, particularly from job applicants, to show if there is a pattern of discrimination in hiring.

However, a businessman who feels the recordkeeping burden on him is unreasonable, is specifically authorized to go to court for relief.

Will the bill force some children to ride buses to school outside their own neighborhood?

No. The bill specifically rules out Federal action to require a "racial balance" in schools.

The original draft of the civil rights bill authorized the Federal Government to get involved in efforts to "adjust racial imbalance in public school systems" caused by neighborhood housing patterns, or so-called "de facto segregation."

This authority was removed by the House Judiciary Committee. An amendment was later added on the House floor clearly banning Federal action in this field.

This still leaves the way clear, however, for local school authorities to order the transfer of pupils to achieve a racial mix.

Will the bill threaten you with the loss of your social security or veterans benefits if you don't comply?

No. The Government cannot cut off your pension even if you choose to discriminate.

The bill does permit a cutoff of Federal funds to a program that discriminates against Negroes. However, the cutoff can only be applied to the program that actually discriminates—not to any other.

A community with a segregated school system, for instance, could lose its Federal school aid, but it would still be eligible for Federal road money.

Thus, no pattern of discrimination by an individual, or by local and State officials, would bring a cutoff in your social security or veterans benefits.

How about Federal aid to dependent children, or to the blind, to disabled, or medical care for the aged, or Federal unemployment compensation?

Yes, such assistance can be cut off as a last resort.

These Federal aid programs, and many others like them, are administered by State and local governments. Some are administered in a discriminatory fashion.

If local officials persist in discriminating and Federal authorities think they have no other resort, the funds can be stopped. Thirty days' notice must be given to Congress first, however, and the right to appeal the cutoff to the courts is guaranteed.

Will the bill forbid you to discriminate just because you have an FHA or VA insured mortgage on your home, or carry GI life insurance, or have a bank account insured by the Federal Deposit Insurance Corporation?

No. The bill specifically eliminates this possibility.

Millions of ordinary citizens receive Federal aid in the form of Government insurance on their life, house, or savings. Fears arose that the bill would cover them because of its ban on discrimination in federally assisted programs.

So the bill was amended by the House to make it clear that "contracts of insurance or guaranty," such as FHA and VA home loans, are not covered.

Those few veterans who borrowed money directly from the VA to finance their homes are covered, but not the vast majority whose mortgages are simply insured by the VA.

Will the bill permit you to be sent to jail without a trial by jury?

Yes; if you disobey a Federal court order directing you to comply with the law.

With minor exceptions, the civil rights bill creates no new crimes for which you can be fined or jailed. But it does set forth certain discriminatory acts for which a Federal judge—after a trial—can order you to cease.

Then, if you don't cease, the judge can slap you in jail without a trial by jury.

Your crime would not be violating the civil rights act. It would be contempt of court, and the Justice Department points out that there never has been a right of trial by jury for criminal contempt of court.

Certain safeguards are added: If you defy a court order enforcing the voting rights or public accommodations sections of the bill, you can't be jailed for more than 45 days or fined more than $300 without a jury trial.

For disobeying a court order involving the other parts of the bill, such as the fair employment section, you can be jailed indefinitely.

Will the bill let you be questioned in a secret "star chamber" proceeding, with a jail sentence hanging over you if you reveal what happened?

Yes.

The bill authorizes the Civil Rights Commission to hold hearings to investigate complaints of discrimination. If the Commission thinks the testimony might embarrass or incriminate someone, it can hold the hearing behind closed doors.

Unauthorized disclosure of the proceedings can be punished by a $1,000 fine or a year in jail.

The Justice Department says this provision is to protect people from premature or unfair disclosure or unsubstantiated charges. The secret hearings are only to gather information, since the Commission has no power to make anybody do anything.

Will the bill force doctors, lawyers, barbers, and small businessmen to serve Negroes even if they aren't engaged in interstate commerce?

It depends where your business is located.

If you live in a community where there is a local law actually on the book requiring racial segregation, the new Federal law will apply to every business and professional man. If you serve white people in such a town, you will have to serve Negroes too.

In other communities:

You will have to serve all races if your place of business is located "on the premises" of an establishment, such as a hotel or theater, covered by the bill.

You will also be covered if your place of business, such as a department store, contains a restaurant or lunch counter covered by the bill.

You are not required to serve Negroes just because your store or office is located in the same building, or the same shopping center, with a covered establishment.

A doctor or lawyer could have an office in a hotel, or upstairs over a restaurant without coming under the law.

Will the bill permit discrimination against you if you don't believe in God?

Yes.

An amendment added by the House permits an employer to refuse to hire an atheist—even if he is otherwise qualified.

Will the bill control the selection of members and guests of private clubs?

In most cases, no.

Bona fide private clubs do not come under the provisions of this bill, but there are two exceptions:

If the club is not really private, but allows anybody to join for payment of a small fee, it cannot discriminate against Negroes.

If a club is located on the premises of a covered business, such as a country club connected to a public hotel, and offers its facilities to white guests of the hotel, it must also serve Negro guests.

ARCHITECTURAL BARRIERS FOR THE HANDICAPPED

Mr. HUMPHREY. Mr. President, on behalf of the Senator from Utah [Mr. Moss], I ask unanimous consent to have printed in the RECORD at this point a statement prepared by him, together with an article entitled "Victims of Paralysis Join in Efforts To Open Doors,"

written by Paul O'Donnell, and published in the Washington Star of March 1, 1964, dealing with the subject of architectural barriers for the handicapped.

There being no objection, the statement and article was ordered to be printed in the RECORD, as follows:

ARCHITECTURAL BARRIERS FOR THE HANDICAPPED

(Statement by Senator MOSS)

Several weeks ago I made a brief speech in the Senate about the splendid progress being made in Utah to remove architectural barriers for the handicapped. Surveys have been made to locate such barriers in public and other important buildings which the handicapped cannot hurdle, and through the efforts of the Utah Committee for the Elimination of Architectural Barriers, they are gradually being removed.

I read with interest, therefore, a story in the Washington Sunday Star of March 1, written by Frances Lide, detailing the heroic and successful efforts of one young man who hasn't walked for more than 10 years, but who has made himself self-sufficient and relatively active even though confined to a wheelchair.

The young man in question, Paul O'Donnell, has found ways to get around many of the architectural handicaps in his own home, and at the University of Illinois, and he now is working, through an organization called Open Doors, to help other handicapped secure the same amount of independence. One of their projects is a survey to locate architectural barriers and recommend changes.

I submit for the RECORD the Washington Star story, entitled "Victims of Paralysis Join in Efforts To Open Doors."

[From the Washington (D.C.) Star, Mar. 1, 1964]

VICTIMS OF PARALYSIS JOIN IN EFFORTS TO OPEN DOORS

(By Frances Lide)

Paul O'Donnell parked his car, whipped out a folding wheelchair, climbed in and, in a matter of seconds, was at his front door where he bounced the chair up the single step and led his visitor to the living room.

Now "29 going on 27," as he put it, he hasn't walked without the aid of a brace since he was thrown out of a car in an accident when he was 15 years old.

"People say, 'You have adjusted to your injury very well,'" he remarked, "but they should say, 'We have adjusted to the injury very well.'"

By "we" he means just about everybody—his family (six brothers and a sister), his "large number of very good friends," and almost anyone he meets.

CONTINUED IN SCHOOL

He spent 13 months in the hospital following the accident but was back in Georgetown Prep School within a few days after his discharge.

Then he went on to Georgetown University, got his first job not long after he graduated, and has continued to do the things he used to do for fun, including sports.

An athlete before the injury, he turned to coaching youngsters at the St. Thomas Apostle School near his home on 27th Street. "I really believe I receive more satisfaction from coaching than from playing," he said.

He also bowls, has season tickets to the Redskins' games each year, likes to go to the theater, movies, and restaurants ("I am limited on dancing, though") and recently spent 10 days in Orlanda, Fla., where he was best man at a friend's wedding.

Paul said his friends have accepted his injury in such a matter-of-fact way that he doesn't think they are conscious of it when they call up, for instance, and say, "Let's go to a movie."

He doesn't pretend, however, that it doesn't involve some problems.

ASKS ABOUT STEPS

"When you are going somewhere, your initial question is, 'How many steps are there?'" he pointed out. "Or you may want to know if there is a way to get there without using steps at all.

"People have been good to me and I haven't been so bullheaded that I would say, 'No, I want to do everything myself,'" he continued.

"There have been times when I had to put my pride away and scream for help. But then everybody has to ask for help of some kind from time to time.

"I probably have lived a fuller life than if I hadn't had the injury. Most people strive for a purpose in life. Mine is built in.

"And I believe that you never lose something that you are not given a great deal more. I sometimes wonder what I'd be doing if it hadn't been for the injury. I think I'm put here for a purpose and it gives me a tool to work with. I feel I have an advantage over other people—and with it a great deal of responsibility."

Not all paralysis victims are as philosophical as Paul, of course, nor have as sunny a disposition.

But a score or more of traumatic paraplegics and quadriplegics in the Washington area—mostly teenage boys or young men—have banded together in an effort to offer encouragement and assistance to recent victims of injuries who have been similarly affected.

"Opening Doors" is the symbolic name of the group.

It was the brain child of a young college student, Fred Fay, of Fort Sumner Hills, Md., who is now at the University of Illinois—the only university in the world, incidentally, which has educational facilities that are physically accessible to students in wheelchairs.

Fred, who had suffered a broken neck 2 years earlier, learned of Paul's success in surmounting his injury and asked him to come over and discuss the possibilities of a group that might serve others in the same situation.

Both young men happened to know Dr. Margaret Kenrick, director of Georgetown University's department of physical medicine and rehabilitation who lives a couple of doors from Fred, so they called her in as an adviser.

MAJOR GOALS OUTLINED

As a result of their talk it was concluded that there are two major needs for traumatic paraplegics—someone for newly injured persons to turn to for advice on nonmedical problems, and a directory of places in the area which are accessible to persons in wheel chairs.

The name "Opening Doors" was chosen to suggest the doors of opportunity that can be opened to the newly injured as well as physical doors that can be opened, too, by architectural changes if they are too narrow for a wheel chair or accessible only by going up and down steps.

The next move was to recruit members—in the beginning from the ranks of those who already were rehabilitated, holding jobs, attending college, or both. About a dozen were rounded up and were eager to help.

The group meets regularly—usually on the first Sunday of each month. There are no dues; members contribute by doing what they can for others.

Wives, parents, and friends have participated from the outset.

Visits to the newly injured by members who have demonstrated that they can offer real moral support are an important service of the group. Whenever possible, the member chosen has the same level of injury so as to be familiar with the difficulties and opportunities that the patient will encounter.

Opening Doors also has assembled a "library" of information useful to paraplegics, quadriplegics and their families. This is in the custody of Fred's mother, Mrs. Allan B. Fay, who lives at 6116 Overlea Road in Fort Sumner Hills. (Mrs. Fay's telephone number is used on a card the group distributes to those who may want the services of Opening Doors.)

In addition, a leaflet is available listing helpful reading materials concerning paraplegia, constructive use of time, home care, and the like.

SURVEY SOUGHT

Still a major need, according to Paul, who is president of the group, is an architectural barriers survey of the metropolitan area which will produce a directory of places which are accessible to persons in wheel chairs. The District Easter Seal Society has indicated that it plans to work with the Commissioners Committee on the Employment of the Handicapped on such a project.

The society also is eager to get in touch with other paraplegics and quadriplegics in the area. It has been estimated that there probably are about 400 and Opening Doors has been able to locate only a small fraction of that number.

The group tries to publicize any project that will boost the morale of the newly injured. As a case in point, Paul called attention to the fact that tomorrow night's "East Side, West Side" TV program deals with problems of paraplegia.

Also supported by Opening Doors are efforts made to promote building regulations providing for access of wheel chairs in public places—especially educational institutions.

SENATOR HUMPHREY CONGRATULATES RETAIL CLERKS INTERNATIONAL ASSOCIATION ON MEMBERSHIP GROWTH

Mr. HUMPHREY. Mr. President, I rise to call the attention of my distinguished colleagues to the uninterrupted growth of one of the Nation's largest trade unions, the Retail Clerks International Association, an affiliate of the AFL–CIO.

I am confident that all Senators wish to join with me in congratulating the RCIA, and its president, James A. Suffridge, on 20 consecutive years of membership growth. Recently, Mr. George Meany, president of the AFL–CIO, stated that he knew of no other union in the history of the labor movement that had compiled such a record of uninterrupted growth.

Mr. President, the Retail Clerks International Association is comprised of those men and women who work in our retail outlets up and down the Main Streets of America. They assist the housewife in the supermarkets. They sell us shoes, clothes, tools, and even confections when we attend the theater. These white-collar workers are in the mainstream of America's economy.

Today, the membership of the RCIA is nearly a half million, making it the sixth largest union affiliated with the 130-odd international unions of the AFL–CIO.

Last June I had the opportunity, along with several of my distinguished colleagues in the Senate, to address the RCIA at its 75th anniversary year convention in Chicago. I was proud to address this group of organized labor, for I have known from long experience that

they exercise the highest democratic principles.

After seeing the vitality of this convention, there is no doubt in my mind why the Retail Clerks Union has grown. I congratulate them on their 20 years of membership growth—without interruption and their diamond jubilee, and I know they are going to have another successful 75 years and keep their record unbroken.

CIGARETTES—TRIED AND FOUND GUILTY

Mrs. NEUBERGER. Mr. President, the writing team of Lois Mattox Miller and James Monahan have produced an informative article, "Cigarettes—Tried and Found Guilty," which appears in the April issue of Reader's Digest.

The outline of the evidence developed through the Surgeon General's Advisory Committee is presented in a popular form for all to read.

The article concludes with a cogent statement and one which I have subscribed to since I became interested in the connection between smoking and disease, and that is, "In the last analysis, the issue of whether to smoke or not to smoke must be decided by each individual."

Mr. President, I ask unanimous consent that this article be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIGARETTES—TRIED AND FOUND GUILTY

(By Lois Mattox Miller and James Monahan)

On Saturday morning, January 11, some 100 reporters entered a Federal auditorium in Washington, D.C. When the press was seated, all doors were locked (to prevent news leaks), and clerks handed out copies of a hefty, 387-page book entitled "Smoking and Health." This was the long-awaited report of U.S. Surgeon General Luther L. Terry's Advisory Committee which was expected to settle the cigarette controversy once and for all.

A glance at the report's main conclusion was sufficient to reveal that the impartial committee of medical experts had produced a blockbuster. The report stated, "On the basis of prolonged study and evaluation of many lines of converging evidence, the committee makes the following judgment: Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

Within a few hours newspapers throughout the country bristled with startling headlines. The New York Herald Tribune, for example, presented the story under a front-page banner: "It's Official—Cigarette Smoking Can Kill You."

DAMNING EVIDENCE

Summaries of the voluminous evidence supported the headlines:

Cigarette smoking causes lung cancer in men. The evidence for women, while less extensive, points to the same conclusion. The magnitude of the effect of cigarette smoking "far outweighs all other factors," including air pollution.

Cigarette smoking is the most important cause of chronic bronchitis; it also increases the risk of death from pulmonary emphysema.

Cigarette smoking greatly reduces lung function. Breathlessness is far more prevalent among smokers than nonsmokers.

Women who smoke during pregnancy tend to have babies who are underweight at birth.

Cigarette smoking is a "significant factor" in causing cancer of the larynx in men, and there is some connection between cigarette smoking and cancer of the esophagus and of the urinary bladder.

Male cigarette smokers have a 70-percent higher death rate from coronary heart disease than nonsmokers.

While the cause-and-effect relationship has not been established, cigarette smoking is "associated" with many cardiovascular diseases, including hypertensive heat disease and general arteriosclerosis.

The 10-man Committee, which included 5 nonsmokers, 3 cigarette smokers, and 2 cigar smokers, was unanimous in all its conclusions. Moreover, the conclusions paraleled those of a report nearly 2 years earlier by Britain's Royal College of Physicians.[1]

BURDEN OF DISPROOF

Most commentators noted that the "burden of disproof" had now been passed to the tobacco industry. "The Committee," stated one editor, "has said in effect: the evidence overwhelmingly indicts cigarette smoking; if you have any other theory to explain these findings, prove it with the same quality of evidence we have found."

For once, the tobacco industry had no glib answer. The Advisory Committee not only ruled out air pollution as the chief cause of lung cancer but threw cold water on the industry's pet theory that a virus is the culprit. Said the report: "No evidence has been forthcoming to date implicating a virus."

The report also squelched the industry's argument that charges associating cigarettes with various diseases were based merely on "statistical" evidence. "The Committee was aware," the report stated, "that the mere establishment of a statistical association between tobacco and a disease is not enough. The casual significance of the use of tobacco in relation to the disease is the crucial question. For such judgments three lines of evidence are essential: animal experiments, clinical and autopsy studies, and population or epidemiological studies." Then all three converging lines of evidence were cited.

ANIMAL EVIDENCE

"There is evidence from numerous laboratories that tobacco-smoke condensates [tars] and extracts of tobacco are carcinogenic [cancer producing] for several animal species." Seven compounds found in smoke and tars have been proved carcinogenic; and other substances in tobacco and smoke, though not carcinogenic, promote cancer production. Some irritants in the smoke produce experimentally the noncancerous tissue damage seen in heavy smokers.

CLINICAL EVIDENCE

The report cited the "extensive and controlled study" by Dr. Oscar Auerbach, professor of pathology at New York Medical College, of lung tissue taken from some 1,500 men who had died of various causes.[2] Cancerous and precancerous changes in cells were found in many specimens. Later this evidence was matched with the individual's smoking (or nonsmoking) history. Cancerous or precancerous cellular changes "were much more common in the trachea and bronchi of cigarette smokers and subjects with lung cancer than of nonsmokers and patients without lung cancer. * * * Many of the findings observed by Auerbach have been confirmed by other investigators."

POPULATION STUDIES

Since 1939 numerous population studies have established the connection between smoking and various diseases. Two types of surveys, the report stated, "have furnished information of the greatest value for the work of this committee." The first is the "retrospective study," of which there have been 29, comparing medical records and death certificates of known smokers with those of known nonsmokers. "It is noteworthy," the committee stated, "that all 29 retrospective studies found an association between cigarette smoking and lung cancer."

The second type of study is "prospective." In this, large numbers of living smokers, nonsmokers and ex-smokers are enrolled. Complete histories of their smoking habits are recorded, and over the years, as participants die, from whatever cause, their death certificates are obtained for study. The Committee examined seven such studies made in the United States and Britain.

Of the 1,123,000 men in the seven studies, 37,391 died during the period covered by the combined reports. The Committee found that, for all causes of death taken together, the death rate for male cigarette smokers was "nearly 70 percent higher than for nonsmokers. For coronary-artery disease, the death rate is 70 percent higher for cigarette smokers. For chronic bronchitis and emphysema, the death rate for cigarette smokers is 500 percent higher than for nonsmokers. For cancer of the lung, the most frequent site of cancer in men, the death rate is nearly 1,000 percent higher."

THE FILTER QUESTION

To the dismay of the tobacco companies, the report made no findings on filtertip cigarettes (which account for nearly 60 percent of total cigarette sales). Later, Surgeon General Terry explained: The Committee believed it had insufficient evidence as to the effect of various filters. Since not all the substances in tobacco smoke which have adverse effects on health are yet known, it would be impossible to know whether a given filter might permit the passage of hazardous susbtances. He admitted, however, that it would be "erroneous to conclude that cigarette filters have no effect."

Asked if "standardized research" on the effectiveness and selectivity of filters, as well as additional research on the components of smoke would not be desirable, Dr. Terry answered, "Yes, unquestionably." The Committee felt, he added, that "the development of better or more selective filters is a promising avenue for further research."

In presenting the report, Dr. Terry promised that there would be "no foot-dragging" by the Government. "We will move promptly to determine what remedial health measures the Public Health Service should take." The exact nature of the remedial measures probably will be left to a second advisory committee.

The Federal Trade Commission announced that it was ready to take action in its field. On January 18, it issued a set of proposed regulations which, among other things, would require every cigarette advertisement, package, and carton to carry this warning: "Caution—Cigarette Smoking Is Health Hazard. The Surgeon General's Advisory Committee on Smoking and Health has found that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate." A shorter warning was designed particularly for television commercials: "Caution—Cigarette Smoking Is Dangerous to Health. It May Cause Death From Cancer and Other Diseases."

THE TOBACCO LOBBY

When the Advisory Committee was formed in July 1962, the tobacco industry welcomed the project and hoped for a "comprehensive review" of the evidence. But when the report was published, the president of the Tobacco Institute, George V. Allen, commented on a remark which Dr. Terry had

[1] See "Lung Cancer and Cigarettes," the Reader's Digest, June 1962.

[2] See "The Cigarette Controversy: A Storm Is Brewing," the Reader's Digest, August 1963.

made at an informal press conference. Said Allen, "As Surgeon General Terry pointed out, 'There is a great deal yet to be known on the subject.' In short, this report is not the final chapter."

No one disagrees. Indeed, the president of the American Cancer Society, Dr. Wendell G. Scott, said of the report, "More research is needed to determine what constituents in cigarette smoke are responsible for lung cancer, how these cancers develop, and whether these constituents can be eliminated." Responsible health officials, however, are unwilling to suspend judgment and sacrifice lives until the "final chapter" is written. Dr. Scott commented, "It is essential that action be taken immediately to make use of the information in this report to reduce the tragic and unnecessary toll of more than 100 deaths a day caused by cigarette smoking in this country."

The tobacco industry, for more than 10 years, has demanded "more research" as a delaying tactic against every authoritative study of cigarettes and disease. But from now on its propaganda, aimed at confusing or beguiling the public, will be subordinated to high-pressure politics. Openly or behind the scenes, the battle will be waged on Capitol Hill.

When the FTC's proposal for regulating cigarette labeling and advertising was announced, it drew fire immediately from tobacco-State Members of Congress. Representative HAROLD D. COOLEY, of North Carolina, chairman of the House Agriculture Committee, challenged the Commission's authority, and added, "I think someone in the FTC must be emotionally disturbed."

The tobacco lobby was already at work. "Tobacco-State Congressmen," according to the New York Times, "were also seeking to round up support from Representatives of other States that have a large stake in cigarettes—areas where cellophane, cigarette papers and aluminum foil, for example, are produced. The suppliers of the cigarette industry are spread from South Dakota to Texas."

The objective is to delay or kill anything that might hurt cigarette sales—specifically the proposed FTC regulations. There may even be a huge handout for the tobacco industry. Representative COOLEY has introduced a bill to provide $5 million for "an emergency research program to make cigarettes safer." He has not explained, however, why taxpayers' money should be spent to try to solve a problem that properly should be the business of an industry which spends over $200 million annually on cigarette advertising.

POLITICS VERSUS HUMAN LIFE

"The smoking report can hardly be kept out of politics," a New York Herald Tribune editorial commented, "but the immediate tendency of tobacco-State politicians to rise up in defense of cigarettes and to question the report's findings is a sorry commentary on their concern for human health or life."

The tobacco industry is desperate, not only because of what may be lost in sales, but because far more may be lost as a result of damage suits brought against the cigarette companies by victims of lung cancer who smoked a particular brand or by the victims' survivors. Five cases already have gone to trial, many more are pending. The legal point at issue is the "implied warranty" that cigarettes are safe to smoke because the manufacturer does not state otherwise. In one case (*Green* v. *The American Tobacco Co.*) the court held that Green's two or three packs of Lucky Strikes per day probably caused the lung cancer which killed him. However, the court refused to award the $1,500,000 in damages sought by Green's estate, and the U.S. Court of Appeals reversed the verdict and ordered a new trial.

The cigarette companies are aware that they are in for trouble and that the Advisory Committee's report may hasten it. Says Edward J. Bloustein, professor of law at New York University, "Unquestionably it will carry great weight with jurors." Ironically, the warning which the FTC would put on labels and in ads would, in the opinion of legal experts, probably relieve the manufacturers of such liability in the future. Yet the industry hesitates to make the admission, and probably will fight to the bitter end.

In the last analysis, the issue of whether to smoke or not to smoke must be decided by each individual. Legislation can provide much-needed controls over the cigarette industry. But "you can't legislate against cigarette smoking," said Dr. Charles W. Mayo of Rochester, Minn., after reading the Advisory Committee's report. "It's up to the individual whether to quit or not."

POLAND GETS U.S. AID: SENDS ARMS TO REDS

Mr. MUNDT. Mr. President, any American encouragement of trade with Communist countries which strengthens either the economy or the military posture of the Reds is detrimental to the cause of freedom and imperils the continued peace of the world. It is axiomatic, Mr. President, that only the Communists are strong enough to threaten the United States with war in this modern age and that only a Communist country strong enough to feel it has a chance for victory will ever upset world peace by attacking the United States. Thus when we recklessly pursue trade and credit policies which enable the Communists to overcome their basic economic deficiencies, we jeopardize our goal of enduring peace and continuing freedom.

Allan H. Ryskind, of California, noted syndicated columnist, has an interesting comment on this proposition which appeared in the Indianapolis News and I ask unanimous consent that it appear at this point in my remarks. It provides serious food for thought for all of us. I hope many other writers and editors will also record their observations:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Indianapolis (Ind.) News, Dec. 18, 1963]

PROFESSOR CONFIRMS IT: POLAND GETS U.S. AID, SENDS ARMS TO VIET REDS

(By Allan H. Ryskind)

WASHINGTON.—Should America increase aid and trade to Communist Poland? This has now become a major—and annual—debate in both the Senate and House, with the Democratic administration engineering lawmakers into supporting this policy, contending these concessions will finally "woo" Poland to the West.

The new President and even some Democratic Members of Congress, however, may be less enthusiastic about it when they learn that Poland has made an arms deal with North Vietnam, whose soldiers have killed 128 Americans in South Vietnam. In other words, trade and aid to Poland, far from winning friends, is helping that Red nation's capacity to put American GIs in an early grave.

The news that Polish arms are reaching North Vietnam has also reached the ears of the State Department policymakers, but the Foggy Bottom crew insists it has no hard information on the subject, that it is all rumor and speculation.

For the State Department's information, then, it would be good to relate an article by Author P. J. Honey, in the October–December 1961, The China Quarterly, a scholarly magazine published in London. Professor Honey, one of the foremost scholars on Vietnam, has indicated in correspondence to this writer that Poland continued to send arms to North Vietnam in 1962 as well. I have not received word regarding Poland's possible delivery of arms to North Vietnam in 1963.

The North Vietnamese Prime Minister, Pham Van Dong, relates Professor Honey, toured Red China, Russia and Eastern Europe in June, July, and August of 1961, where he "secured military aid to the value of 220 million new rubles for the DRV's (Democratic Republic of Vietnam) struggle to reunify Vietnam. The principal donor was Russia, but some of this aid was also given by Czechoslovakia, Poland, and China."

Professor Honey indicates in his correspondence that this news, while not verified by the U.S. State Department, could be verified by Britain, France, or Canada which have diplomatic representatives in North Vietnam. His own information source, relates Professor Honey, also lives in Hanoi, the capital of North Vietnam.

"My articles on North Vietnam," writes Professor Honey, "are always read by the Vietnamese Communist authorities and have frequently been commented on by Hanoi radio. I have no doubt that the Poles have also seen this short article, but neither the Poles nor the Vietnamese have denied my statement.

"Moreover, the big Vietnamese buildup both in South Vietnam and Laos shows that military aid has come in considerable quantities from some source, and there is no reason to doubt my correspondent's information about this source."

A question not only arises then, whether we should supply Poland with any aid or trade concessions, but why the State Department doesn't at least acknowledge, as they have not, that there is good evidence to believe Poland is sending arms aid to North Vietnam. Someone, this reporter insists, should find out the extent to which Poland is aiding North Vietnam before Congress grants that nation any more aid or trade.

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the motion of Mr. MANSFIELD that the Senate proceed to consider 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 public facilities and public education, to extend 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 ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate pro-

ceed to the consideration of House bill 7152, the Civil Rights Act of 1963.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

[No. 93 Leg.]

Aiken	Gruening	Monroney
Allott	Hart	Morse
Bartlett	Hartke	Morton
Beall	Hayden	Mundt
Bennett	Hickenlooper	Nelson
Bible	Hill	Neuberger
Boggs	Holland	Pell
Brewster	Hruska	Proxmire
Burdick	Humphrey	Ribicoff
Byrd, Va.	Inouye	Robertson
Byrd, W. Va.	Jackson	Russell
Cannon	Johnston	Saltonstall
Carlson	Jordan, N.C.	Scott
Case	Jordan, Idaho	Smathers
Church	Keating	Smith
Clark	Lausche	Sparkman
Cooper	Long, Mo.	Stennis
Cotton	Long, La.	Symington
Curtis	Magnuson	Talmadge
Dodd	Mansfield	Thurmond
Dominick	McCarthy	Tower
Douglas	McClellan	Walters
Ellender	McGee	Williams, Del.
Ervin	McGovern	Yarborough
Fong	McIntyre	Young, N. Dak.
Fulbright	McNamara	Young, Ohio
Goldwater	Metcalf	

Mr. HUMPHREY. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Indiana [Mr. BAYH], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from Rhode Island [Mr. PASTORE], and the Senator from New Jersey [Mr. WILLIAMS] are absent on official business.

I also announce that the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from California [Mr. ENGLE], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that the Senator from West Virginia [Mr. RANDOLPH] is absent because of illness.

Mr. COTTON. I announce that the Senator from Iowa [Mr. MILLER] is absent by leave of the Senate.

The Senator from Kansas [Mr. PEARSON] is absent on official business.

The Senator from Illinois [Mr. DIRKSEN], the Senator from New York [Mr. JAVITS], the Senator from California [Mr. KUCHEL], the Senator from New Mexico [Mr. MECHEM], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Vermont [Mr. PROUTY] is detained on official business.

The PRESIDING OFFICER (Mr. WALTERS in the chair). A quorum is present.

The question is on the motion of the Senator from Montana [Mr. MANSFIELD] to proceed to the consideration of House bill 7152.

Mr. ROBERTSON obtained the floor.

Mr. ROBERTSON. Mr. President, I yield to the acting majority leader [Mr. HUMPHREY] with the understanding that I do not lose the floor.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. HUMPHREY. I thank the distinguished Senator from Virginia. Mr. President, it is understood that this in no way shall be interpreted as interfering with the right of the Senator from Virginia to the floor.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LENGTH OF SESSION TODAY

Mr. HUMPHREY. Mr. President, I announce that the Senate will be in session until at least 10 o'clock tonight. All Senators should be on notice, with respect to quorum calls or other activities.

I thank the Senator from Virginia for yielding to me.

ADVERTISEMENT OF COORDINATING COMMITTEE FOR FUNDAMENTAL AMERICAN FREEDOMS, INC.

Mr. STENNIS. Mr. President, will the Senator from Virginia yield to me, without losing the floor?

Mr. ROBERTSON. With the same understanding, I am glad to yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, the newspaper advertisement of the Coordinating Committee for Fundamental American Freedoms, Inc., which appeared in many newspapers throughout the Nation was the object of debate on the floor of the Senate last week, but it was not included in the RECORD.

At some later time I shall speak on the factual statements and merits of this advertisement, but I think that the Senators should have the advantage now of the full contents of the advertisement. The information therein contained has very significant value to the people of the Nation, and I therefore ask unanimous consent to have it printed in the body of the RECORD.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

ONE-HUNDRED-BILLION-DOLLAR BLACKJACK: THE CIVIL RIGHTS BILL—THE BILL IS NOT A MODERATE BILL AND IT HAS NOT BEEN WATERED DOWN—IT CONSTITUTES THE GREATEST GRASP FOR EXECUTIVE POWER CONCEIVED IN THE 20TH CENTURY

THE SOCIALISTS' OMNIBUS BILL OF 1963 NOW BEFORE THE SENATE

The American people are being set up for a blow that would destroy their right to determine for themselves how they will live.

What is being piously presented as a humane effort to redress past wrong—the "civil rights" bill—is, in fact, a cynical design to make even the least of us, black and white alike, subject to the whim and caprice of Government bureaucrats.

Unless American workers, farmers, business and professional men, teachers, homeowners, every citizen awakens now, harsh Federal controls will reach into our homes, jobs, businesses, and schools, into our local and State elections, and into our municipal and State governments.

ONE-HUNDRED-BILLION-DOLLAR BLACKJACK

You should know, through this bill you are to be struck by a $100 billion blackjack—almost the total Federal budget. Your tax money is to be used as a weapon against you.

That is the meaning of the civil rights bill:

(1) It would amend every Federal law (hundreds of them) that deals with financing so that each Federal department or agency could make its own regulations to manipulate Federal funds: Each Federal department would define for itself what is "discrimination" and apply its own penalties (sec. 601–602).

(2) It would empower Federal political appointees—through the use of the blacklist, cancellation of contracts, foreclosure, and other punitive means—to use almost $100 billion a year to force our people to knuckle under to Executive dictation (secs. 601–602).

You should know this.

TOTAL FEDERAL CONTROL

The bill now pending in the U.S. Senate would (a) allow people to be jailed without trial by jury (titles I, II, III, IV, and VII).

It would (b) allow the Government to hold star chamber sessions and to imprison those who disclose, without permission, what went on behind its closed doors (sec. 501).

It would (c) deny an individual the right to freely seek employment without Federal interference as to race or religion—it would deny this right (titles VI and VII).

It would (d) deny the employer the right to hire, fire, promote and demote without Federal interference as to race or religion—it would deny this right (titles VI and VII).

It would (e) deny to school boards (public and private) and to colleges the right to determine, unhampered by the Federal Government, how their students and teaching staffs would be handled—it would deny this right (titles IV, VI and VII).

It would (f) take from local and State officials their right, without Federal interference:

To handle local and State elections (title I);

To regulate local parks, swimming pools and other recreational facilities (title II);

To regulate hotels, restaurants, motion picture houses, stadiums, etc. (title III); and

To regulate employment practices (titles VI and VII).

THE MYSTERY WORD: "DISCRIMINATION"

The bill now pending in the U.S. Senate would:

(a) Allow each Federal department and agency to determine for itself what is and what is not "discrimination" (titles V, VI, and VII)—the bill, itself, does not define the word.

(b) Allow each Federal department and agency to determine for itself what is and what is not "race" and "religion" (titles IV, V, VI, and VII)—The bill, itself, does not define either word.

Therefore, there would be no uniformity of interpretation. What might be classified as a "discriminatory practice" by one agency, might not de so classified by another agency.

OMNIPOTENT PRESIDENT

And always—if this bill becomes law—there will be the omnipotent President or his appointees to rule, thumbs up, thumbs down. Sometimes, yes. Sometimes, no.

Only a dictator has such prerogatives.

It follows, then, under the Socialists' omnibus bill—misnamed the civil rights bill—those who enjoy political favor may expect political favors. Others may expect something else.

Such is the significance of the bill now pending in the U.S. Senate: It would establish the rule of man and abolish the rule of law.

Six members of the House Committee on the Judiciary, each an attorney and each an expert in this sort of legislation have said: "The reported bill is not a moderate bill and it has not been watered down. It constitutes

the greatest grasp for executive power conceived in the 20th century."

If you wish this bill defeated, you can defeat it: Write your Senators, both of them. Write them, now, today, and tell them you oppose it. Tell them why.

There is no other way. If you want this bill stopped, write your Senators, now, and tell them so.

Within the coverage of this bill Federal inspectors would dictate to [1]—

Individuals as to:
1. Seniority in private employment.
2. Seniority in civil service.
3. Preferential advance of minorities.
4. Social security.
5. Veterans' and welfare benefits.
6. Employee facilities.

Farmers as to:
1. All Federal farm programs.
2. Employees and tenants.
3. Membership in farm organizations.

Labor unions and members as to:
1. Job seniority of members.
2. Seniority in apprenticeship programs.
3. Racial balance in job classifications.
4. Racial balance in membership.
5. Preferential advance of minorities.

Banks and other financial institutions as to:
1. Approval of loans.
2. Foreclosure of loans.
3. Compensation, terms, conditions of employment.
4. Hiring, firing and promotion of employees.
5. Racial balance of job classifications.

Businesses and industries as to:
1. Hiring, firing, and promoting of employees.
2. Racial balance of job classifications.
3. Racial balance of office staffs.
4. Preferential treatment of minorities.

FEDERAL PROGRAMS AFFECTED

Federal programs subject to manipulation include loans by all Federal agencies; Farm Credit Administration; Federal land banks; banks for cooperatives; production and commodity credit; SBA and FNMA; school lunch programs; Hill-Burton hospitals; highway construction; child welfare services; social security; community health services; school fellowships and research; school and college construction; aid to blind and disabled; vocational education; agricultural experiment stations; Federal Reserve System; national banks; Federal Civil Service; Federal contracts; veterans' benefits.

Within the coverage of this bill Federal inspectors whould dictate to [2]—

Schools and colleges as to:
1. Handling of pupils.
2. Employment of faculties.
3. Occupancy of dormitories.
4. Use of facilities.

Teachers as to:
1. Their employment, discharge, and promotion.
2. Preferential treatment of minorities.
3. Compensation, terms, and conditions of their employment.

Hospitals as to:
1. Medical and nursing staffs.
2. Technical, clerical, and other employees.
3. Patients' beds and operating rooms.
4. Facilities and accommodations.

Hotels, motels, and restaurants as to:
1. Rental of rooms.
2. Service of customers.
3. Hiring, firing, and promotion of employees.

States and municipalities as to:
1. State FEPC acts.
2. State labor laws.
3. Handling of public facilities.
4. Supervision of private facilities.
5. Judges and law enforcement officers.
6. Handling of elections.

DICTATORIAL ATTORNEY GENERAL

This bill would make the Attorney General a virtual dictator of America's manners and morals. It would grant him unprecedented authority to file suits against property owners, plain citizens, and State and local officials, even though the supposed grievant has not filed suit. The Attorney General would become the grievant's lawyer at the taxpayers' expense. The bill grants to the Attorney General:

1. The unprecedented power to shop around for a judge he prefers to hear a voting suit (title I).

2. The right to sue an owner of public accommodations before the owner is accused of a "discriminatory practice" (title II).

3. To sue State or local officials concerning public facilities without an individual having filed suit (title III).

4. To sue local school boards, although no suit has been filed by any schoolchild or other person (title IV).

Last fall, when broad authority to sue in civil rights matters was first proposed, the Attorney General said: "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."

This bill falls within that condemnation.

Tearsheets of this ad, suitable for reproduction in other newspapers, may be had upon request.

The Coordinating Committee for Fundamental American Freedoms, Inc., 301 First Street NE., Washington, D.C., William Loeb, chairman, Manchester, N.H.; John C. Satterfield, secretary, Yazoo City, Miss.; John J. Synon, director, Washington, D.C.

[1] Free book: "Unmasking the Civil Rights Bill," a detailed analysis of this bill may be had from this committee. Single copy, free. More than 1 copy 10 cents each.

[2] The outlines appearing affect those persons who fall within the categories to the extent described in the 10 bills ("titles") embodied in this package of legislation, subject to minor exceptions. Detailed analysis may be obtained from this committee.

VOLUNTARY RACIAL RELOCATION COMMISSION

Mr. STENNIS. Mr. President, on Monday of last week it was my privilege to join the distinguished Senator from Georgia [Mr. RUSSELL] in proposing an amendment to the civil rights bill. This amendment would create a Voluntary Racial Relocation Commission charged with the responsibility of bringing about a more equal distribution of the races throughout the Nation.

It would accomplish its mission primarily by encouraging and providing financial assistance to the Negro population to move voluntarily from the areas in which they are concentrated in overwhelming numbers to areas and States where very few Negroes live at present.

As the Senator from Georgia pointed out in his discussion of this proposal on the floor of the Senate, the overall objective would be to bring about a racial population mix in all areas of the Nation which will be more in line with the overall percentage of the Negro population of the country to the entire population.

I submit, Mr. President, that this is a fair, reasonable, logical, and equitable proposal. It is generally conceded that the extent and intensity of the racial unrest which prevails in any region bears a direct relationship to the relative size of the minority group. Therefore, a wider dispersal of the minority throughout the Nation would certainly alleviate the alleged problems of conflict and discrimination which upset and disturb those who so ardently support H.R. 7152.

More than this, the passage of this amendment would give those who are so certain and confident that they have the solution to the racial problem—and who are so determined to impose this solution on others—to assume some portion of the problem itself. It has always been strange to me that those who are not really confronted with the problem in their own States are consistently found in the vanguard of those who would impose their solution on those sections of the Nation where the problem is very real.

The adoption of the amendment which has been proposed by the Senator from Georgia and myself will enable those who are so insistent on imposing their will on us to make a contribution to the solution of the problem which will be somewhat commensurate with and equal to that which they propose to impose on those of us who oppose this legislation.

I submit, Mr. President, that it is manifestly unfair for those who do not share the problem to dictate the solution of it to those who face it daily and who have lived with it for 100 years. If they are sincere in their announced purpose, then certainly they will be willing to accept and absorb a fair proportion of the Negro population. If they do so they will acquire a portion of the problem to go along with their patented proposals for the solution of it.

It is clear, Mr. President, that H.R. 7152, if passed, will have a much greater impact on the South than on any other section of the country. Indeed, it seems to be designed to exclude certain sections of the Nation from the more stringent provisions of certain sections. Let me refer to the colloquy which I had with the distinguished Senator from Wisconsin [Mr. NELSON] last Friday. He made it clear that, coupled with his all-out support of the bill, he had the conviction that neither the public accommodations title nor the FEPC provisions would be applicable to his own State. Yet he is very anxious to impose these same titles on the State of Mississippi. I still cannot understand why those who do not share the problem, and who contend that certain important provisions of the bill would be inapplicable to their States, feel that they have such a superior ability to write legislation for Mississippi and other Southern States.

I do not want to dwell on statistics. Let me point out, however, that there are 12 States which have less than 1 percent Negro population. This contrasts with the national average of 10.5 percent. Among these States are Idaho, Montana, Maine, New Hampshire, Minnesota, and Wyoming. The population of an additional 14 States is less than 5 percent Negro. Among these are Oregon, Washington, Wisconsin, Rhode Island, Massachusetts, Connecticut, and Kansas.

On the other hand, Mississippi's percentage of Negro population is in excess of 42 percent. It has 915,743 Negroes.

The 26 States which have less than 5 percent Negro population have an aggregate Negro population of only 779,329. Thus, Mississippi has 17 percent more Negroes within its boundaries than 26 other States combined.

Here, in clear outlines, lies the problem which would be at least partially ameliorated if the proposed amendment is adopted. The program contemplated would be entirely voluntary and no strong arm of Federal compulsion would be involved as is true in the case of the House-passed force bill. It would impose no restrictions on free enterprise or individual liberty and freedom. It would afford new opportunity to many underprivileged members of our society and give them new hope.

Since the amendment is directed toward a peaceful solution of the grave and explosive racial problems which now threaten to divide this Nation, I hope that it will be given careful, conscientious, and openminded consideration by those who are genuinely interested in such a solution.

I thank the Senator for yielding to me.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the motion of Mr. MANSFIELD that the Senate proceed to consider 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 public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

TITLE VII—EQUAL EMPLOYMENT SECTION

Mr. ROBERTSON. Mr. President—

The Congress hereby declares that the opportunity for employment without discrimination * * * is a right of all persons within the jurisdiction of the United States, and that it is the national policy to protect the right of the individual to be free from such discrimination.

So states the opening of title VII—Equal Employment Opportunity—of the Civil Rights Act of 1963.

The title seeks to require all employers, employment agencies, and labor unions to eliminate discrimination in their spheres, and carries the force of injunction law and imprisonment without trial by jury and without appeal for those held in violation.

Does title VII set up a "quota basis" for employment? That is, will businesses be required to hire a proportion of Negro employees approximating the proportion in the population of the area?

The bill does not say so, but its backers in the House gave no assurance in this respect, even when alarmed opponents cited the "quota system" as a certainty.

Title VII sets up an Equal Employment Opportunity Commission of five members—at $20,000 a year each—to administer the act in much the same way as the National Labor Relations Board has administered labor-management affairs. It is to be a permanent addition to the lengthy list of Government Bureaus.

This title shall become effective 1 year after the date of its enactment, and shall, during the first year, apply to employers of more than 100 persons, in the second year to all who employ more than 50 persons, and in the third year and thereafter to all who employ more than 25 persons.

The title takes up 26 of the 54 pages of the printed act as approved by the House.

Mr. President, that takes up more than one-half of the bill. It is by far the most technical section of the bill. For that reason, I ask the indulgence of the Senate to allow me to proceed to a discussion of the legal technicalities before I yield to Senators for questions. Thereafter, of course, I shall be only too glad to yield.

Mr. President, title VII makes it illegal for an employer—

(1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's race, color, religion, sex, 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, sex, or national origin.

Employment agencies and unions are placed under corresponding prohibitions.

In the House debate, two groups of people were excluded from the protection of the law—atheists and members of Communist-front organizations.

The bill exempts cases in which religion, sex, or national origin—but not race—is a "bona fide occupational qualification," and releases schools, colleges, universities and other educational institutions which are "in whole or in substantial part, owned, supported, controlled, or managed by particular religions or religious societies."

The Commission is empowered to make written agreements with existing State agencies created for the same purpose and to abstain from action in the areas covered by the compact.

I digress to say that this is a little device inserted in the bill under which some of our friends think that they can have a mild FEPC law passed by their State and be excluded from the bill; but I hope it will not be in any bill that is passed, because if we have a national law on this subject—and God grant that we never will—it should apply to everyone alike.

The Commission has authority to decide whether the State agency does or can exercise its powers effectively, and may assume jurisdiction as it pleases.

It was noted in the House debate that most State laws—I emphasize the words "State laws"—on this subject set up punitive clauses under which an accused may obtain trial by jury, while this bill denies that right.

When a complaint is referred to Federal court, a judge may designate a "master" to hear it and make recommendations to the court. The "master" will be paid at a rate to be fixed by the court, plus expenses.

The Commission's agents are given access to the private personnel records of all companies within its jurisdiction, and to the contents of those personnel files. Employers are required to post notices prescribed by the Commission.

The title authorizes an appropriation of $2.5 million for the Commission during the first year, and $10 million during the second and succeeding years.

Mr. President, the Commission would start at a figure which the National Labor Relations Board has achieved only in recent years—$10 million a year. The Commission would start at that figure, which indicates that this agency will really be a costly outfit.

Since there is no definition of the word "discrimination," and the bill eventually will apply to all employers, there are many who think that the enforcement will become as difficult as the enforcement of national prohibition under the Volstead Act. If I may ask, without violating any Senate rule, Why are the proponents, who are crying to high heaven for an FEPC bill, unwilling to have it effective until after the general elections of next November?

I pause to ask: "Why?"

An echo answers, "Why?"

In any event, it is not generally recognized that there will be two methods of enforcement, depending on whether or not the employment is on a Government contract. As to employment on all contracts with the Government a contractor whom the Commission charges with a violation of a Commission regulation can be punished in three ways:

First, he could have his contract with the Government or the contractor or the subcontractor canceled, in whole or in part. If that means what it says, it means that the Commission could cancel that part of his contract under which he would be paid, but leave in that part under which he would render a service.

The second punishment mentioned would be to blacklist him and deny him the right to any other Government contract at any time in the future.

Third—and as that great constitutional lawyer from North Carolina, SAM ERVIN, has said—this is the most remarkable provision of all, a provision which I have never found in any law or regulation—he may be subject to still another punishment, which would be such other punishment as the Presidential Commission might see fit to impose on him. As Juliet's nurse said to Juliet: "God save the mark."

On private contracts, the Commission will seek the help of Federal courts to enforce its orders. Let no one be deceived by the statement recently made by one of the supporters of the program that this is the mildest of all of the FEPC bills that have recently been introduced. It is true that with respect to projects other than Government contracts, enforcement and punishment proceedings must be in a Federal court, but there is nothing mild about a criminal proceeding in a Federal court in which a defendant's constitutional right of trial by a

jury of his peers is denied. Neither is there anything particularly mild about the fact that at the start the bill will apply only to those who employ more than a hundred workers.

I look to my right, to the distinguished Senator from Alabama [Mr. HILL], who served with me in Congress back in 1938. He will recall what a mild bill the fair labor standards bill was said to be.

It was said that sweatshops in New York were paying seamstresses less than 25 cents per hour and so the bill merely provided that they should be paid a minimum of 25 cents per hour. That minimum is now $1.25 and if the Congress enacts the recommendation of President Johnson for double time over 40 hours, the minimum for designated industries will be $2.50 an hour. I ask unanimous consent that S. 2486, which would establish this double rate of pay, be printed at the end of my remarks, together with S. 2487 which would reduce materially the exemptions from the act applying to laundries, hotels, motels, restaurant workers, and would also remove exemptions affecting certain logging, gasoline station, and transportation employees.

THE PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROBERTSON. Mr. President, of course in all wage contracts a minimum law merely means a foundation on which to build because only the most incompetent will get the minimum and whenever the minimum is raised the entire superstructure goes up just as when heavy jacks are put under the foundation of a house.

Then, look at how small the original wage and hour coverage was. Bona fide retailers and salesmen, seamen, persons covered under the Interstate Commerce Act or the Railway Labor Act, employees in the taking of fish, seafoods or sponges, employees employed in agriculture and employees exempted by the Secretary—learners, apprentices, and handicapped workers—were specifically exempted. Authority for the bill was, of course, based upon Congress' power to regulate interstate commerce, and the House thus defined that term, as used in the bill, as follows.

I ask my colleagues in the Senate to pay close attention to this definition, written into a bill in 1938 by the House and adopted by the Senate, as a deliberate expression of legal opinion on the application to certain industries of the interstate commerce clause, because all through the bill we are deliberately violating everything that we solemnly declared in 1938 to be a fact. I ask my colleagues in the Senate to listen to this language:

> "Employer engaged in commerce" is defined to mean an employer in commerce, or an employer engaged in the ordinary course of business, in purchasing or selling goods in commerce. Under this definition purely local businesses are excluded from the operation of the Act. Even businesses which do make purchases or sales of goods in commerce are excluded if such sales are casual and do not constitute a settled course or business practice.

That definition, of course, left out all hotels, motels, restaurants, laundries, and so forth. Thus, as in the terms of an old Eastern proverb: "Did the nose of the camel enter the tent?" What is now the coverage? Practically everything. Inevitably, when one employer is brought under an FEPC law, he will demand that all competitors be placed under the same operating handicaps. And, of course, no racial pressure group which for years has been demanding an FEPC law had any part in drafting the one passed by the House nor has any endorsed its provisions. According to the study of the history of the House FEPC bill made by our ablest Senate lawyer, Senator ERVIN of North Carolina, the House bill just blossomed out full blown, overnight, as it were. Its paternity was never identified, no committee hearings were conducted, and it apparently was more than many wanted and not as much as some wanted and, therefore, constituted a most unsatisfactory substitute. On the floor, the bill reported by the committee, without hearings, of course—and we are still denied hearings—was amended to permit an employer to discriminate against an atheist but to prohibit him from any discrimination based on sex.

When we are considering what will, beyond question, be the law of the land and not just a Court decision in a pending case, we must look beyond what reasonable men would do and consider what unreasonable men could do under the law we pass.

The Chicago Tribune said:

> The effect of the section is to attempt to legislate discrimination in reverse through preferential hiring.

Was that a power delegated to the Congress by our Founding Fathers?

The position of the States as repositories of reserved powers was particularly guarded because it was felt that therein lay protection against the establishment of a dictatorship or tyranny. The separation of powers among the legislative and judicial branches had the same purpose.

I believe title VII would be unconstitutional, from the negative point of view, because no adequate authority for its enactment can be found in the Constitution. It is unconstitutional from a positive point of view because it is violative not only of the whole spirit of the Constitution, but also is specifically in violation of the 1st, 5th, 6th, 9th, 10th, and 13th amendments.

If this law is to be valid, a basis for it must be found in the Constitution itself.

The supremacy of the Constitution and the limited powers of the legislative branch were stressed by our great Chief Justice John Marshall when he said in the case of *Marbury* v. *Madison* (1 Cranch 137):

> The question whether an act repugnant to the Constitution can become the law of the land is a question deeply interesting to the United States; but happily, not of an intricacy proportioned to its interest. It seems only necessary to recognize certain principles, supposed to have been long and well established to decide it.
>
> That the people have an original right to establish for their future government such principles as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected.
>
> This original and supreme will organizes the Government, and assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments.
>
> The Govenment of the United States is of the latter description. The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the Constitution is written.

I can conclude with that same thought when I reach that same point several hours later today.

I continue quoting from Marbury against Madison:

> To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained?
>
> If an act of the legislature, repugnant to the Constitution, is void, does it, notwithstanding its validity, bind the courts, and oblige them to give it effect? Or, in other words, though it be not law, does it constitute a rule as operative as if it was a law? This would be to overthrow in fact what was established in theory; and would seem, at first view, an absurdity too gross to be insisted on (p. 176).

The doctrine that the States alone can deal with civil rights except where power has been delegated to the Federal Government by the Constitution was laid down clearly by the Supreme Court in the Slaughter House cases in 1872 when it discussed article IV, section 2 of the Constitution and said it did not create those rights which it calls privilege and immunities of citizens of the States. It threw around them in that clause no security for the citizens of the State in which they were claimed or exercised. Nor did it profess to control the power of the State governments over the rights of its own citizens.

That statement has been reinforced by other decisions such as the Civil Rights cases (109 U.S. 3), decided in 1883 in which the court illustrated the limitation of congressional powers by saying that although the Constitution prohibited the States from passing any law impairing the obligation of contracts, "this did not give to Congress power to provide laws for the general enforcement of contracts, nor power to invest the courts of the United States with jurisdiction over contracts so as to enable parties to sue upon them in those courts"—page 12.

A minute or two before I came to the Chamber, I received excerpts from a case which I had not previously seen. It was decided by the Supreme Court in 1961. In that case the Supreme Court said that while it differentiated the pending case by claiming that it was under State law, which became amenable to the provisions of the 14th amendment, it held that the case decided in 1883 was still the law of the land. It will be recalled that the Senator from Georgia [Mr. TALMADGE] and I placed in the CONGRESSIONAL RECORD a few days ago a most illuminat-

ing discussion on the whole civil rights program by former Supreme Court Justice Charles Whittaker, of the great State of Missouri. I inadvertently referred to him as coming from Kansas; I should have said Missouri. Justice Whittaker was a great lawyer and an outstanding jurist. He stated that the Supreme Court had never overruled the decision of the Court in the 1883 case. He said, in effect, that to do so, the Court would have to torture the clear meaning of the language of the Constitution.

That great lawyer, district judge, member of the circuit court of appeals, and, for 5 years, a member of the Supreme Court, became disgusted with his colleagues who differed with him and who thought the end justified the means, or something to that effect. Anyway, Justice Whittaker dissented 90 times and wrote 40 dissenting opinions. Then he gave up in disgust and quit the Supreme Court after only 5 years. He is a Republican. He comes from what might be called a border State, but it certainly is not a full-fledged Southern State. Justice Whittaker gives it as his own unbiased legal opinion that the decision of the Supreme Court in the civil rights cases of 1883 is still as much the law of the land, if a Supreme Court decision is that, as the decision in 1954 in Brown against Board of Education, known as the School Segregation cases.

I remind Senators that members of the Supreme Court have taken the same kind of oath we have taken. One stands at that desk, holds up his right hand, and places his hand on the Bible. The Supreme Court may outlaw that procedure later, but we still follow it. We are asked, "Do you swear to uphold the Constitution?" We say: "I do." Do we or do we not? I am telling Senators what an eminent, unbiased legal authority has said: that the decision of 1883 is still the law. But we are rushing pell-mell into the entire civil rights program to violate and override that decision, thinking that by the clever use of words or by some other means we can prevail upon the Supreme Court to ratify and approve what we do here without constitutional authority.

The Court went on to say that the implication of a power of Congress to legislate for the protection of fundamental rights "is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, the power is conferred upon Congress to enforce the prohibition"—page 15.

"This assumption," the Court said, "is certainly unsound. It is repugnant to the 10th amendment to the Constitution which declares that 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"—page 18.

Referring then to the authority conferred by the 14th amendment, the Court in the Civil Rights cases decision said:

> It is absurd to affirm that because the rights of life, liberty, and property (which includes all the civil rights that men have) are by the amendment sought to be protected against invasion on the part of the States without due process of law, Congress may therefore provide due process of law for their vindication in every case (p. 13).

That is still the law of the land, if the decision in the case of Brown against Board of Education is the law of the land. Both were handed down by the Supreme Court of the United States, and neither has been repealed or reversed.

Later in this discussion I shall have occasion to quote at greater length from these famous cases as I trace the acceptance by the Supreme Court of the doctrine of States rights, which is involved here, but I mention these particular decisions at this point to illustrate the weakness of the claim to constitutional backing for this bill. It should be apparent that an effort is being made in the pending bill to support Federal antidiscrimination in employment legislation by its own constitutional bootstraps because no firmer foundation can be found.

The framers of the bill seek to justify it under the interstate commerce clause in article I, section 8 of the Constitution, and as I have said, under the 14th amendment.

Most of this argument misses the mark because it relies on cases, with which opponents of the bill need not quarrel, involving discrimination on the part of some official agency of the Government or some organization acting under governmental authority.

There can be no denial of the right and obligation of the Federal Government to avoid the practice of discrimination on racial or religious grounds in connection with its own employment policies. This, however, is quite different from authority to compel private individuals to pursue similar policies in their own business. In doing this the Government would be compelling citizens to enter into employment contracts without their consent and in contravention of the position taken by the Supreme Court in the case of *Baker* v. *Norton* (79 U.S. at p. 157) when it said, "Consent is the very essence of a contract."

The 1948 Senate committee report on the FEPC bill then pending said:

> Within the acknowledged field of Federal jurisdiction the courts have plainly indicated that action by the Federal Government to prevent discrimination on grounds of race or religion is as valid as action to prevent discrimination on grounds of union affiliation.

But the words to be noted in that assertion are "within the acknowledged field of jurisdiction."

Thus, when a union is protected by Federal law in its right to maintain a closed shop and when it relies on the power of the Federal Government exerted through the National Labor Relations Board to sustain its position, it naturally assumes certain obligations including that of submitting to Federal authority to prohibit discriminatory practices.

Taking this into consideration, we can oppose FEPC legislation as unconstitutional and still accept without quarrel the statement of the Court in the case of *Steele* v. *Louisville and N.R.R. Co.* (323 U.S. 192):

> Congress, in enacting the Railway Labor Act and authorizing a labor union, chosen by a majority of the craft, to represent the craft, did not intend to confer plenary power upon the union to sacrifice for the benefit of its members, rights of the minority of the craft, without imposing on it any duty to protect the minority (p. 199).

The part of the decision I have quoted was cited in the 1948 committee report. It might have gone further and quoted from the same decision the statement of Chief Justice Stone:

> The representative [the union] is clothed with a power not unlike that of a legislature which is subject to constitutional limitations on its power to deny, restrict, destroy or discriminate against the rights of those for whom it legislates and which is also under an affirmative constitutional duty equally to protect those rights (at p. 198).

The Court then added:

> We think the Railway Labor Act imposed upon the statutory representative of a craft at least as exacting a duty to protect equally the interest of the members of the craft as the Constitution imposes upon a legislature to give equal protection to the interests of those for whom it legislates (at p. 202).

Of course recognition of the fact that the Court regarded the union as a quasi-public body would have weakened the usefulness of this case to sponsors of an effort to impose legislation on purely private employers.

The FEPC case is weakened still more if we go a little further into this decision and find that although the Court held that the union was required to perform certain functions as a public duty, the Court did not hold that arbitrary exclusions from membership based solely on racial considerations was in itself an act of discrimination which violated the duty imposed on the union.

I repeat what I said in my opening statement; namely, that the bill does not contain a definition of the word "discrimination." The bureaucrats who would be selected to administer the law would have plenary power to define that word as might suit their own convenience; and until they issued their enforcement regulations, we never would know what they were doing.

Now let us see what the Court said in the Railway Labor case.

> While the statute does not deny such a bargaining labor organization the right to determine eligibility of its membershhip, it does require the union * * * to represent nonunion or minority union members of the craft without hostile discrimination * * * and in good faith (at p. 204).

In other words, in this case, the Court affirmed the right of free association on the part of labor union members—a right which this bill would deny to employers. It compared the union to a legislative body and said that any rules it set up, under protection of Federal law, must be fair to all employees involved. This, of course, is merely in line with the doctrine of the 15th amendment, which prohibits discriminatory action by the United States or by States but which makes no pretense of reaching individual action.

Again, we find in the 1948 committee report a quotation from the case styled as *Railway Mail Association* v. *Corsi* (326 U.S. 88), in which the Supreme Court upheld constitutionality of a civil rights statute of the State of New York and said:

> We see no constitutional basis for the contention that a State cannot protect workers from exclusion solely on the basis of race, color, or creed by an organization functioning under the protection of the State, which holds itself out to present the general business needs of employees (p. 94).

The inapplicability of this citation to the issue now before us should be doubly plain. In the first place, the Court was talking about State action, not Federal action. The opponents of a Federal FEPC not only admit but insist that if any such plan is to be adopted it must be on the State level.

I have already called attention to the provision in the bill which some who would prefer that a national law not be enforced among their constitutents very conveniently inserted in the bill between suns, let us say—a provision which would suit those who said, "a weak, watered-down bill is all that is needed; and if it is passed, it cannot be enforced against us." That is the way the bill is viewed in some quarters.

But, the opponents of a Federal FEPC not only admit, but insist, that if any such plan is to be adopted, it must be on the State level, as I have said.

In the second place, the court in this case, as in the case of Steele against Louisville and Nashville Railroad, to which I already have referred, stressed the point that it was dealing with an organization which was, in the language of the decision, "functioning under the protection of the State," and "which holds itself out to represent the general business needs of employees." The organization accepted State protection and, just as is the case with public utilities, acceptance of protection or a franchise necessarily involves being subjected to State control.

It is only too evident that if we accept the doctrine of FEPC and allow the Federal Government to intervene in hiring, firing, and promotion arrangements between individual employers and employees we have yielded one of the basic principles of private enterprise without which the others might be rendered useless.

But, we can go further than to say that a Federal FEPC cannot be justified by reference to the Constitution. Not only does it lack a positive foundation; it is in direct conflict with the letter and spirit of a large portion of those amendments which are known as the Bill of Rights.

The first amendment forbids Congress to abridge the right of the people "peaceably to assemble." Now, what is the right of assembly if it is not the right to gather for some purpose, or in other words the right to associate? And association is something which certainly happens between employer and employee. Therefore, to deny an employer the right to choose freely those with whom he will associate in his business is to infringe one of the rights guaranteed him under the first amendment. Later on when I cite Supreme Court decisions I shall recur to this point and show that the right of association in business has consistently been recognized as a fundamental right.

An FEPC bill also would violate those parts of the first amendment which guarantee freedom of speech and of the press.

Under those regulations a man dare not ask questions indicating his interest in the nationality or color of a prospective employee and he may be subject to prosecution if he says in a published advertisement that he would prefer to hire workers having or not having certain of these characteristics.

It also seems reasonable to assume that newspapers which published these advertisements regarded as objectionable by the Commission might be accused of conspiring with employers to violate the act or might be prosecuted and imprisoned if they should impede the Commission or its agents in the performance of their duties.

It seems apparent also that members of a labor organization might be prosecuted for saying or publishing that they preferred a certain type of fellow employee. Thus freedom of speech and publication of employees as well as employers would be abridged.

As Mr. Donald Richberg said a few years ago:

> In practical effect, FEPC laws attempt to make it a legal wrong for a man to have a preference, a liking, or a confidence in another person because of his race, religion, color, or ancestry. Here is the beginning of a thought control by government which has never before been attempted except by some tyrannical form of government, alien and abhorrent to any free people. Only Communist nations today impose thought control. The mind itself is imprisoned when a man cannot freely speak or publish his opinions.

In short, the right to discriminate against a person, so far as one's associations are concerned, on the ground of racial prejudices is a right of free speech—

As the Supreme Court said in the case of *West Virginia Board of Education* v. *Barnette* (319 U.S. 642):

> Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us.

The principle involved here also was clearly stated by Mr. Justice Jackson in a concurring opinion in the case of *Thomas* v. *Collins* (323 U.S. 516) when he said:

> It cannot be the duty, because it is not the right of the State to protect the public against false doctrine. The very purpose of the first amendment is to foreclose public authority from assuming a guardianship of the public mind through regulating the press, speech and religion. In this field every person must be his own watchman for truth, because the forefathers did not trust any government to separate the true from the false for us. * * * This liberty was not protected because the forefathers expected its use would always be agreeable to those in authority or that its exercise always would be wise, temperate or useful to society. As I read their intention, this liberty was protected because they knew of no other way by which men could conduct representative democracy (p. 545–546).

The application to an FEPC bill is obvious. Let us concede that those who indicate racial or national prejudice in advertising for employees are neither wise, temperate, or useful to society in doing so. The fact remains, as Mr. Justice Jackson said that their liberty to express these views was protected not because it is agreeable to those in authority, but simply because our forefathers knew of no other way by which men could conduct representative democracy.

FEPC legislation also violates the fifth amendment.

When a man engaged in business is required to order his hiring and his promotion of employees in a way that may be unprofitable—and that can easily happen under the provisions of FEPC—he is being deprived of property without due process of law. The amendment says private property shall not be taken for public use without just compensation, but this bill would go even beyond that and take property for private use without compensation. The employer also would be deprived of the liberty to pick his associates and to conduct his own business. Again, this arbitrary restraint on the freedom of association would violate another provision of the fifth amendment which says a person shall not be deprived of liberty without due process of law.

The protection against criminal prosecution without a trial by jury, which is guaranteed by the sixth amendment, would also be denied by the section of the proposed FEPC law which would authorize an administrative commission to fine an employer for refusing to hire a particular applicant for employment on a Government contract.

This FEPC bill would attempt to create a new "civil right" to employment without discrimination and then to provide punishment for those who violate this "right." Essentially this is the creation of a criminal offense, and the sixth amendment says:

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

Now, under this FEPC bill on private contracts a court may fine an offender or put him in jail for contempt if he disobeys. All this is without a jury trial.

As Mr. Donald Richberg said in an able analysis of this point in a previous bill:

> No lawyer would deny that if the law frankly made discrimination a crime, punishable by fine or imprisonment, the enforcement of the law would be a "criminal prose-

cution" in which a trial by jury would be necessary.

Even clearer evidence of the unconstitutionality of FEPC legislation is found, however, when we consider the ninth amendment which provides:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparate others retained by the people.

And the 10th amendment, which asserts:

> 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.

One of the witnesses at the hearings in 1947 summed up the matter by saying:

> The right to choose employees, friends, associates, spouses, falls under the law of natural selection, a natural right, an unalienable right, a fundamental "reserved" to man by the 10th amendment and by the 9th "retained" to him.

As I have suggested previously, and shall emphasize again when I come to the citation of cases, the courts have repeatedly held that any power to create a civil right, unless specifically delegated to the United States by the Constitution, has been reserved to the States. That applies to all of the pending civil rights bills.

Also, in denying the employer the right to choose his employees, and thus compelling him, against his will, to work with those he would not have picked otherwise, the employer is forced into involuntary servitude, in violation of the 13th amendment, which forbids involuntary servitude, except as punishment for a crime.

Proof that such an involuntary association in business as would be required under an FEPC law might be interpreted as involuntary servitude under terms of the 13th amendment may be found in decisions of the Supreme Court.

The Court, for example, has held unconstitutional a State law under which a person who was fined for a misdemeanor, and, upon agreeing to do so, was allowed to work out the fine for the surety who paid it for him. That was in the case of *United States* v. *Reynolds* ((1914) 235 U.S. 133). The Court also knocked down, in the case of *Bailey* v. *Alabama* ((1911) 219 U.S. 219), a State law making it a misdemeanor, punishable by imprisonment, for a person to agree to perform a service, and then refuse to do so after receiving a part of the consideration in advance.

Thus, the right of an employee not to work unless he chooses to do so, even when he has obligated himself, and has accepted payment for work to be done, has been clearly established; and it is clear that he cannot be forced into an involuntary association with an employer.

If "equal rights under the law" is a term that means anything, it should mean that the employer has an equal right not to be coerced into association with an employee, against his will. Yet, we find that under FEPC legislation, an employer not only can be penalized financially for refusing to employ; but if he opposes, impedes, or interferes with the bureaucrats who enforced the act, he may subject himself to imprisonment, and without a jury trial.

In the case of Bailey against Alabama, to which I have just now referred, the Supreme Court called the 13th amendment "a charter of universal freedom for all persons" and said:

> The plain intention was to abolish slavery of whatever name and form and all its badges and incidents; to render impossible any state of bondage; to make labor free, by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit, which is the essence of involuntary servitude (219 U.S. 219).

The Constitution intended that the protection which the Court described in that statement should be given to employers, as well as employees. Yet it seems obvious that an FEPC law would cause one man—an employer—to be coerced for the benefit of another man—an employee—and therefore clearly would violate the 13th amendment.

The fact of the matter is that the type of legislation we are discussing is completely out of harmony with the spirit of the Bill of Rights, despite the effort of its sponsors to label it as "civil rights legislation."

One of the supporters of Senate bill 984 at the hearings in 1947 referred to the purpose of the first 10 amendments to the Constitution as being to protect the rights of the individual and the States, and then added that the FEPC bill represents "a logical extension and implementation of the rights of the individual citizen safeguarded in the Bill of Rights."

A review of the circumstances under which the Bill of Rights became a part of our Constitution will show how erroneous is that conclusion.

In the Virginia ratifying convention, Patrick Henry was largely responsible for the assurance given by Madison that at the first session of the National Congress he would offer the first 10 amendments, now called our Bill of Rights. He knows not his history who does not know that Patrick Henry was fighting to protect the States and the people from the encroachments of the Federal Government. To say that a FEPC bill will implement the rights for which Patrick Henry was fighting is absurd.

The sketchy reports of the debates when the Constitution was being drawn, clearly indicate that the arguments over whether a Bill of Rights should be included did not involve the question of the existence of such rights, but centered around whether it was necessary or advisable to set them out specifically in the Constitution. The division, in short, was between those who felt that the Federal Government in the future could be trusted to recognize and respect these individual rights, and those who felt, as Jefferson did, that in every government there is a germ of despotism which may multiply, if fed on unrestrained power, until it corrupts the body politic.

If we go back to the Articles of Confederation, under which the States originally were united, we find that article II reads:

> Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States, in Congress assembled.

That is the foundation for the fundamental principle of States rights. It is the reason why, when we formed a more perfect Union, which was what is called a federal union—namely, a union composed of sovereign States—it was provided in the ninth amendment that the enumeration of some rights did not deprive the States of others, and in the first 10 amendments, it was said that rights which were not delegated to the Federal Government were "reserved to the States respectively, or to the people."

No comparable section is found in any of the plans or drafts for a Constitution submitted to the Convention or in the document which the Convention submitted to the Congress on September 17, 1787. But in the Convention's letter of transmittal, this statement was made:

> It is obviously impracticable in the Federal Government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all, individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which must be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

The Congress, which received the Convention report on September 20, set September 26 as the day on which the new plan would be considered; and when the debate started on that day objections immediately were raised.

Richard Henry Lee, of Virginia, quoted from a letter from George Mason and agreed with Mason that the Constitution ought to include a bill of rights. Lee then proposed a series of amendments.

The Constitution went out to the States without these amendments and ran into a new barrage of criticism. Mason and John Randolph, of Virginia, who submitted the most comprehensive plan on which the Constitution was based but who had refused to sign the final draft, and Eldridge Gerry, of Massachusetts, who also refused to sign, all said they were convinced that unless it could be amended at once it would be a threat to the liberties of America.

The debate in Congress continued into December 1787 with the anti-Federalists arguing that lacking a bill of rights the Constitution destroyed the sovereignty of the States while the Federalists said—and this is the point I would emphasize:

> A Federal Bill of Rights was superfluous, since the States had their own and the States gave up their sovereignty only in matters which no one of them had a right to decide upon.

James Wilson, of Pennsylvania, arguing for the Federalists, said:

My position is that the sovereignty resides in the people. They have not parted with it; they have only dispensed such portions of it as were conceived primarily for the public welfare. The Constitution stands upon this broad principle.

Wilson extended his argument to the point of saying that the power of the States was inferior to that of the people, who could delegate the supreme power as they saw fit, but he did not pretend that the Federal Government had or could have any authority except that which was specifically delegated to it.

In the State ratifying convention, too, we find the argument recurring that a bill of rights was not necessarily because the limited power of the Federal Government was obvious.

Thus, in Connecticut, Richard Law, chief judge of the State's superior court and mayor of New London, said:

This General Government rests upon the State governments for its support. It is like a vast and magnificent bridge, built upon 13 strong and stately pillars; now the rulers who occupy the bridge cannot be so beside themselves as to knock away the pillars which support the whole fabric.

Ratification was obtained in Massachusetts and New Hampshire only after agreement that amendments to the Constitution would be submitted along with the notice of acceptance.

In South Carolina, Gen. Charles Cotesworth Pinckney met objections by assuring the legislature that the Convention had omitted a bill of rights only because these rights already belonged to the people and the power over them had not been granted to the Federal Government either to affirm or withhold.

In Virginia the leading objectors to the Constitution urged that amendments be submitted and acted on by another Federal Convention before ratification. Patrick Henry and George Mason warned of the danger of loss of State and individual rights unless changes were made to protect them. Thomas Jefferson indicated that he would like to see nine of the Thirteen States ratify in order to assure the new Government but that the remaining four should hold out for what he considered indispensable amendments, including a bill of rights. There was general agreement on the need for amendments, the chief difference being that Federalists in the Convention argued that Virginia should ratify and then seek amendments in the manner provided by the Constitution, while the anti-Federalists insisted that amendments should be made before ratification.

When the Virginia convention finally voted for ratification it included in its action a provision that "in order to relieve the apprehensions of those who may be solicitous for amendments," they should be recommended to Congress to be acted upon according to the mode prescribed.

Similar debates occurred in the New York State convention and to aid their cause in that crucial struggle, Alexander Hamilton, and John Jay, with the help of James Madison, of Virginia, produced the famous "Federalist Papers" to support the cause of ratification. When the final vote was taken it was stated in the motion that New York was ratifying "in full confidence" that until a second Federal Convention should be called for "proposing amendments," certain specified State rights claimed by New York should not be interfered with. A circular letter then was sent by the Governor to the Governors of all other States, recommending the calling of this convention. It was agreed by observers that without these concessions favorable action by New York could not have been obtained.

Some of the arguments used in the Federalist Papers to obtain favorable action on the Constitution in New York are especially significant when we examine the constitutionality of the type of legislation now under consideration.

In the Federalist No. 17, for example, Hamilton referred to fears that allowing the Federal Government to deal directly with individual citizens might render the Government of the Union too powerful and, as he said, "enable it to absorb those residuary authorities, which it might be judged proper to leave with the States for local purposes."

Hamilton then went on to say it was improbable that there would exist a disposition of the Federal councils to usurp such powers as regulation of the "mere domestic police of a State," or of—and note these words—"private justice between the citizens of the same State," because, Hamilton said:

The attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the National Government.

Mr. President, those are prophetic words. I remind Senators that one Member of the House said the bill might be as troublesome as prohibition was under the Volstead Act. The bill would permit agents of the Federal Government to examine the confidential files of every businessman in the Nation; first, if he has 100 employees, next if he has 50 employees, next if he has 25 employees, and finally if he has only 1 employee, since that is what we would get down to.

These agents will be swarming all over this Nation, going into the private affairs of every businessman in the Nation. They will not produce a single additional job. Instead, they may cut down on the effectiveness of a company and limit the number of jobs. What they will do is substitute for a member of one racial group a member of a different racial group.

Let us be frank about it; they will put a colored man in a white man's place. That is what the main fight is over, it is not a fight among Catholics, Jews, or Protestants, but a racial fight.

Why did Alexander Hamilton tell the people of New York that they could safely vote to ratify the Constitution? Because he said the Federal Government would never undertake to do anything like that. That was when the Founding Fathers were trying to get the Constitution off the ground and put it into operation.

Now let us go back to Alexander Hamilton's words:

The attempt to exercise those powers would be as troublesome as it would be nugatory; and the possession of them, for that reason, would contribute nothing to the dignity, to the importance, or to the splendor of the National Government.

What would it contribute to? Some think it would contribute to their carrying the next election, and they do not want this provision to become effective until after the election has been held. That is the plain fact; otherwise they would not be writing: "This Act shall not become effective until 1 year after its adoption." That puts it well past next November.

Hamilton warned us. He said it was absurd to think that any government would attempt to do anything like that. He urged his friends in New York to vote to ratify the Constitution, to form a proper union, because he believed that our Government would never try to do what some might think it would undertake.

Again, in the 39th Federalist, Madison pointed out that the proposed Government would be partially national and partially Federal in its functioning. He said that although it would be national in the operation of its powers it would be Federal in the extent of its authority.

The idea of a national government involves in it—

He said—

not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation, this supremacy is completely vested in the National Legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures.

In the former case, all local authorities are subordinate to the supreme; and may be controlled, directed, or abolished by it at its pleasure. In the latter, the local or municipal authorities form distinct and independent portions of the supremacy, nor more subject, within their respective spheres, to the general authority, than the general authority is subject to them within its own sphere.

In this relation, then, the proposed Government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects.

These were the solemn words of the man who did much to frame the Constitution. It was not as strong as he wanted it to be, of course. Alexander Hamilton left somewhat in disgust, and let Madison finish the job. However, he thought Madison had done a pretty good job.

An even more specific assurance that the powers of the Central Government would be strictly limited was given in the 45th Federalist, written by Madison, who said:

The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous

and indefinite. The former will be exercised principally on external objects, as war, peace, negotiations, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

It was in response to such arguments as these that the people of the various States, in their conventions ratified the Constitution, but with a general understanding that it would be promptly amended.

The attitude of the time was well expressed in the North Carolina convention, which refused to ratify until acceptance by nine States already had made the Constitution effective. In that convention William Goudy is reported to have said:

I care not whether it (the Constitution) be called a compact, agreement, covenant, bargain, or what. Its intent is a concession of power on the part of the people to their rulers. We know that private interest governs mankind generally. Power belongs originally to the people, but if rulers are not well guarded, that power may be usurped from them. People ought to be cautious about giving away power. * * * If we give away more power than we ought, we put ourselves in the situation of a man who puts on an iron glove, which he can never take off till he breaks his arm. Let us beware of the iron glove of tyranny.

And so I say to Senators today, we should beware of the concealing aspect of the title of "civil rights" on this legislation and recognize that it covers the mailed glove of tyranny.

Returning to the background of the Bill of Rights, we find that the amendments demanded by the various State conventions were proposed by the first session of the Congress which met in 1789; and some of the things said in the debate while they were under consideration may be illuminating to this discussion.

James Madison, urging immediate consideration of the amendments on June 8, 1789, was reported as saying that unless this were done the people "may think we are not sincere in our desire to incorporate such amendments in the Constitution as will secure those rights, which they consider as not sufficiently guarded."

Madison also referred to the "anxiety which prevails in the public mind," and said:

It appears to me that this House is bound by every motive of prudence, not to let the first session pass over without proposing to the State legislatures some things to be incorporated into the Constitution, that will render it as acceptable to the whole people of the United States, as it has been found acceptable to a majority of them.

He added:

I wish that those who have been friendly to the adoption of this Constitution may have the opportunity of proving to those who were opposed to it that they were as sincerely devoted to liberty and a republican government as those who charged them with wishing the adoption of this Constitution in order to lay the foundation of an aristocracy or despotism. It will be a desirable thing to extinguish from the bosom of every member of the community, any apprehensions that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and honorably bled.

Madison said there still were a great many who were dissatisfied with the Constitution, but who might join in supporting federalism if they were satisfied on one point, and "we ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this Constitution."

Enlarging on this point, he said:

I believe that the great mass of the people who opposed it [the Constitution], disliked it because it did not contain effectual provisions against encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power.

Madison then outlined the proposed amendments, which at first were intended for insertion in the body of the Constitution itself. The original form of the proposals which eventually became the 9th and 10th amendments are particularly interesting as indicating the thinking of Madison and others who helped to design the form of our Government.

Instead of the ninth amendment, as we know it, reading: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people," the proposal offered by Madison read:

The exceptions here or elsewhere in the Constitution, made in favor of particular rights, shall not be construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the Constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

That language was not adopted, but I suspect that if Madison and his colleagues had realized the length to which the loose constructionists would go in attempting to construe the rights of the Federal Government, under such parts of the Constitution as the interstate commerce clause, as permitting control over every phase of business activity, they would have been more insistent on the original language, which spelled out the fact that the enumeration of certain rights must not be construed as enlarging powers delegated by the Constitution, but were intended to limit such powers.

In the case of the 10th amendment, changes in language were made to make more plain the fact that it was directed against the Federal Government. Thus, as proposed by Madison, this amendment read:

The powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States respectively.

As adopted, this was altered to read:

The powers not delegated to the United States by this Constitution—

Inserting the words "to the United States"—

nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Adding the phrase "or to the people."

In his argument, Madison said he had never considered a bill of rights so essential to the Constitution as to make it improper for the States to ratify the instrument without such an addition, but that he did think it would serve a useful purpose. He pointed out that the Magna Carta was designed to protect the British people against the power of the Crown, rather than the legislative branch of the Government and said:

Although I know that whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, come in question in that body—

The British Parliament—

the invasion of them is resisted by able advocates, yet their Magna Carta does not contain any one provision for the security of those rights, respecting which the people of America are most alarmed. The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British Constitution.

But although the case may be widely different, and it may not be thought necessary to provide limits for the legislative power in that country, yet a different opinion prevails in the United States. The people of many States have thought it necessary to raise barriers against power in all forms and departments of government, and I am inclined to believe, if once bills of rights are established in all the States as well as the Federal Constitution, we shall find that although some of them are rather unimportant, yet, upon the whole, they will have a salutary tendency.

Discussing the nature of a Bill of Rights, Madison said:

In some instances they assert those rights which are exercised by the people in forging and establishing a plan of government. In other instances they specify those rights which are retained when particular powers are given up to be exercised by the Legislature. In other instances they lay down dogmatic maxims with respect to the construction of government declaring that the legislative, executive, and judicial branches shall be kept separate and distinct. Perhaps the best way of securing this in practice is, to provide such checks as will prevent the enrichment of the one upon the other.

But, whatever may be the form which the several States have adopted in making declarations in favor of particular rights, the great object in view is to limit and qualify the powers of government.

Note, now the contract between the statement of proponents of FEPC that it is a "logical extension and implementation of the rights of the individual citizens safeguarded in the Bill of Rights," and the statement of Madison, sponsor of the Bill of Rights as proposed in the First Congress, who said "the great object in view is to limit and qualify the powers of government."

There we have the issue set out for us as clearly as it could be stated. On one hand we have proponents of civil rights who seek to establish the constitutionality of their legislation by a power statement in the bill, and who are using the power of the Federal Government against the individual, when Madison said that the purpose of the Bill of Rights was to protect the individual from the powers of the Government.

What a farce we have made of this term "civil rights." As I said in my

opening statement, what a dagger they are proposing to drive into the heart of our Bill of Rights in our Constitution, a protection for the individual that does not exist in the organic form of government in any other country of the world, not even in Great Britain.

Continuing the quotation from the debate in Congress on the Bill of Rights amendments, Madison said:

> The great object in view is to limit and qualify the powers of government, by excepting out of the grant of powers those cases in which the Government ought not to act, or to act only in a particular mode.

Oh, how clear he was.

It has been well said that never in the history of organized civilization has there assembled at one time and place a group of men so well trained and versed in the science of government as gathered in the summer of 1787 in Philadelphia to form a more perfect union.

Mr. President, I will continue Madison's quotation.

Continuing his discussion, Madison said:

> In our Government it is, perhaps, less necessary to guard against the abuse of the executive department than any other; because it is not the strongest branch of the system, but the weaker, it therefore must be leveled against the legislative, for it is the most powerful, the most likely to be abused, because it is under the least control.

I interpose again to say "How true." Every student of the Constitution knows that the framers of the Constitution put in the general welfare clause as a limitation upon power to tax. Taxes could be levied to promote the general welfare and not to promote some private, individual or local interest. Congress ignored all of the precedents and the statements of those who framed the Constitution to say it was an unlimited grant of power. The Supreme Court held that with respect to appropriations, it was not going to pass on whether Congress had violated their oath to uphold and support the Constitution or not. They could appropriate for anything they pleased. That was the first action that Congress took to tear down what the framers had intended to be a Government of limited and delegated powers.

Here we find Madison, who did more than any one man both to frame and to explain the Constitution, predicting that the legislative branch would become the most powerful because, he said, "It is under the least control."

And, of course, the framers of the Constitution sought to take some of the pressure off Congress by having a Senate that was elected by the legislators. They would be responsible to the legislators, and the legislators were supposed to be more conservative than most of the voters of a given State.

I refer, of course, to the State legislatures.

In any event, a Member of the Senate who was elected by the legislature would not be under the direct pressure of any one pressure group. That was one of the plans of the original founders.

Mr. President, I digress to call attention to the fact that the junior Senator from Virginia is the first Senator from Virginia to be elected under the constitutional amendment which provides for the direct election of Senators. I cannot help but feel that the Congress which proposed and the States which ratified that change in the plan formulated for the Constitution—namely, in the plan to have the Senate be a restraint upon impetuous action by the more numerous branch of the Congress—did not improve our governmental structure at all.

As I have said, Senators were supposed to be a bit more conservative, and they were to be protected from popular passions.

But what is the situation now? Today, Senators are under the gun, so to speak, of every pressure group; and frequently we find more conservative action being taken by the House, because the Members of the House are here, there, and elsewhere; and pressure groups which control the balance of power do not dominate the election of Members of the House at any given time. Therefore, the Members of the House can exercise independence, under the new plan. But we have changed the plan our forefathers intended; and now Members of the Senate come under more pressure. Members of the House are elected every 2 years, whereas Senators are elected every 6 years. Two-thirds of the Members of the Senate continue in office, and the Senate is a continuing body. Yet, as I have said, when it comes to pressure legislation, I believe that Senators are now under more pressure than are the Members of the House. To that extent, I question the direct election of Senators, although, as I have said, I happen to be the first Senator from Virginia who came into this body under the new plan.

It was to keep the Senate more independent and as more of a balance wheel to the House, which was elected every 2 years and which came under the constant hammering pressures of pressure groups to do this, that and the other, regardless of constitutional limitations.

Thus, according to Madison, we should look to our Bill of Rights as a fortress against the abuse of legislative power and not as a source of authority to invade the field of personal liberties with regulative authority.

Discussing, as he had done in some of the Federalist Papers, the theory of our Constitution, Madison said that some had argued that a bill of rights was not necessary in the Federal Constitution "Because the powers are enumerated, and it follows that all that are not granted by the Constitution are retained; that the Constitution is a bill of powers, the great residuum being the rights of the people; and, therefore, a bill of rights cannot be so necessary as if the residuum was thrown into the hands of the Government."

Madison then said:

> It is true the powers of the General Government are circumscribed, they are directed to particular objects; but even if government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent, the same manner as the powers of the State governments under their constitutions may to an indefinite extent; because in the Constitution of the United States there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the Government of the United States, or in any department or officer thereof; this enables them to fulfill every purpose for which the Government was established. Now, may not laws be considered necessary and proper by Congress, for it is for them to judge of the necessity and propriety to accomplish those special purposes which they may have in contemplation, which laws in themselves are neither necessary nor proper?

That statement is so appropriate to the subject under discussion that Madison might almost have been imagining the situation in which we find ourselves today. We have Members of Congress interested in a laudable purpose, which is guaranteeing to every resident of the United States the civil rights to which he is entitled. Since this is an objective which is in itself justified by our Constitution, we find them resorting to the reserved powers of government which permit the making of all laws necessary to carry into execution the powers vested in the Government and its officers. But, as Madison foretold, we find them turning to laws "which laws in themselves are neither necessary nor proper." On the contrary, these laws would in themselves violate the right of the States to control their internal affairs and the rights of individual citizens to associate and do business with one another.

Madison hoped that the limitations of the Constitution would be so clearly recognized that a bill of rights would not be necessary to deal with such a situation, but he also saw the danger and so he advised that the Bill of Rights be adopted as an extra safeguard.

In the course of the debate from which I have been quoting, on June 8, 1789, Mr. Vining, of Delaware, said that a bill of rights was unnecessary in a government deriving all its powers from the people and said the matter was sufficiently covered by the statement in the preamble that "We, the people, do ordain and establish."

In contrast with this was the viewpoint of Mr. Gerry, of Massachusetts, who pointed out in the debate on July 21 that 7 of the 13 States had thought the Constitution very defective, yet, he said, "5 of them had adopted it with a perfect reliance on Congress for its improvement."

The concern of the people of the United States at the time the First Congress was considering the Bill of Rights amendments also was indicated on August 13 when Mr. Lee, of Virginia, asked the House to consider the report of the committee to which they had been referred and Mr. Page said he hoped the House would agree to the motion of his colleague without hesitation, "because he conceived it essentially necessary to proceed and finish the business as speedily as possible; for whatever might be the fact with respect to the security which the citizens of America had for their rights and liberties under the new Constitution, yet unless they saw it in that light, they would be uneasy, not to say dissatisfied."

Madison agreed with his colleagues, asking:

Is it desirable to keep up a division among the people of the United States on a point in which they consider their most essential rights are concerned?

Mr. Page then went further and said he "was positive the people would never support the Government unless their anxiety was removed." He begged the House to "consider the importance of the number of citizens who were anxious for amendments. If these had been added to those who openly opposed the Constitution," he said, "it possibly might have met a different fate."

Thus we have an assertion that our Government, in effect, owes its very creation and existence to the assurances given in the Bill of Rights—assurances which were to protect the people against too much government and the type of meddling which FEPC represents.

Lee's motion to take up the amendments carried and the first one coming from the committee proposed that:

In the introductory paragraph of the Constitution before the words, "We the people," add "government being intended for the benefit of the people, and the rightful establishment thereof being derived from their authority alone."

Here again we see the working of minds fearful of too much government insisting that the very first words used in setting up our National Government specify unequivocally not only that it was intended for the benefit of the people, but that the right to establish it was "derived from their authority alone."

As the debate continued the next day, August 14, Mr. Gerry objected to the wording "government being intended for the benefit of the people," because he said it held up an idea that all governments of the earth were intended to benefit the people.

I am so far from being of this opinion—

Gerry said—

that I do not believe that 1 out of 50 is intended for any such purpose. I believe the establishment of most governments is to gratify the ambition of an individual who, by fraud, force or accident, has made himself master of the people.

Mr. Page said he saw no need of changing the preamble because "the words, 'We the people,' had the neatness and simplicity, while its expression was the most forcible of any he had ever seen prefixed to any Constitution." He said he did not doubt the truth of the proposition brought forward by the committee, but he doubted the necessity for it in this place.

Mr. Sherman, of Connecticut, agreed with this viewpoint. He said:

The people of the United States have given their reasons for doing a certain act. Here we propose to come in and give them a right to do what they did on motives which appeared to them sufficient to warrant their determination; to let them know that they had a right to exercise a natural and inherent privilege, which they have asserted in a solemn ordination and establishment of the Constitution. Now, if this right is indefeasible, and the people have recognized it in practice, the truth is better asserted than it can be by any words whatever. The words "We, the people" in the original Constitution, are as copious and expressive as possible; any addition will only drag out the sentence without illuminating it.

Now, there is a point which I think may also be applied quite directly to any proposed FEPC bill. As I previously pointed out, it seeks to create by assertion a Federal right to be free of discrimination in employment. If such a right exists under our Constitution, it can, as Mr. Sherman said of the preamble phrases, be exercised without being spelled out in the bill. But, on the other hand, if such a right does not exist, no amount of wordage in a bill passed by the Congress can create it.

On August 15, 1789, the House took up another proposed amendment which, as it came from the committee, read:

The freedom of speech and of the press and the right of the people peaceably to assemble and consult for their common good and to apply to the government for redress of grievances shall not be infringed.

Mr. Tucker, of South Carolina, moved to insert the phrase "to instruct their representatives," and touched off an extended debate on the proper role of legislators in our Government.

Mr. Jackson, of Georgia, opposed the Tucker proposal, saying he favored the right of the people to assemble and consult for the common good but not the power to instruct their representatives.

If we establish this as a right—

He said—

we shall be bound by those instructions; now, I am willing to leave both the people and the representatives to their own discretion on this subject. Let the people consult and give their opinion; let the representative judge of it; and if it is just, let him govern himself by it as a good Member ought to do; but if it is otherwise, let him have it in his power to reject their advice.

Then the representative from Georgia continued with an observation that is worthy of our particular attention today.

What may be the consequence—

He asked—

of binding a man to vote in all cases according to the will of others? He is to decide upon a constitutional point, and on this question his conscience is bound by the obligation af a solemn oath; you now involve him in a serious dilemma. If he votes according to his conscience, he decides against his instructions; but in deciding against his instructions, he commits a breach of the Constitution, by infringing the prerogative of the people, secured to them by this declaration. In short, it will give rise to such a variety of absurdities and inconsistencies, as no prudent legislators would wish to involve themselves in.

I invite attention to the fact that I have been quoting from a speech made in Congress in 1789 on the question of whether a pressure group, which may be the dominant group in a given area, has the right and the power to instruct their representative in Congress how to vote, or whether the Representative in Congress shall be free to honor his solemn oath to support and uphold the Constitution. That was the question which was involved in what I have read.

Mr. Tucker of Georgia came to the inescapable conclusion that Members of Congress must be left free to judge whether or not the requests made by constituents were or were not in violation of their oaths, because he said that undoubtedly priority must be given to the solemn oath to support and uphold the Constitution.

Madison reemphasized that point, asking:

Suppose they instruct a representative, by his vote, to violate the Constitution; is he at liberty to obey such instructions?

It is important for us to remember that this proposal to allow the people to instruct their representatives in the Congress was not inserted in our Constitution.

We hear talk from time to time of a "mandate from the people," as result of an election, for their representatives to vote a certain way and some of those who have supported FEPC and other so-called civil rights legislation have claimed to be acting on such a "mandate."

As Madison and others brought out so forcibly in their discussion more than a century and a half ago, when a man has taken a solemn oath to support and defend the Constitution of the United States, there can be no such thing as a mandate to violate that oath. And the duty of supporting the Constitution cannot be brushed lightly aside on the ground that we can pass any law we choose and let the Supreme Court pass on its validity.

While I have asked the privilege of proceeding without interruption, and I must insist upon that, I wish to comment on the fact that I see to my right a distinguished Member of this body, the Senator from Florida [Mr. HOLLAND], who recognized the point that I have been trying to urge. That is, if one does not like a provision in a State law, he should not try to exercise unconstitutional power to repeal the State law. I am referring to the poll tax. As George Washington told us in his Farewell Address, "If the time should ever come when you do not think the Constitution is equal to your needs, do not violate it but amend it in the way that the Constitution provides."

The distinguished Senator from Florida did not like a provision for a poll tax to be in State laws. I did not agree with him. But since he did not like that provision, he proceeded in a legal way to remove it, and it was eliminated.

A few weeks ago we witnessed final action on the amendment proposed to the Constitution which would tell the States, "You cannot legally require the payment of a poll tax as a qualification to vote."

Mr. HOLLAND rose.

Mr. ROBERTSON. I am sorry that I cannot yield, but I shall do so after I have concluded. I must treat Senators alike. I know that my friend from Florida would like to ask me a question. If he will bear it in mind and remain in the Chamber for another hour or two, I shall then yield to him.

We hear a great deal of talk about the Great Emancipator, Abraham Lincoln. He was a great man. We hear a great deal of the civil rights he advocated. Let us see what he said on that subject.

Abraham Lincoln put it bluntly when he said:

> No man who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it.

Mr. ERVIN. Mr. President, will the Senator yield for a question along that same line?

Mr. ROBERTSON. While the Senator was not present, I asked the privilege of completing my discussion before yielding, since I am dealing with a technical subject in the bill. After I have concluded, I shall be very happy to yield.

Mr. ERVIN. I thank the Senator.

Mr. ROBERTSON. Going back to Madison and the debate from which I have been quoting, we find he said:

> My idea of the sovereignty of the people is, that the people can change the Constitution if they please; but while the Constitution exists, they must conform themselves to its dictates. But I do not believe the inhabitants of any district can speak the voice of the people; so far from it, their ideas may contradict the sense of the whole people; hence the consequences that instructions are binding on the representative is of a doubtful, if not a dangerous nature.

Somewhat later in the debate, on August 21, when an amendment was under discussion that would have taken away the power of Congress to alter the time, manner, or place of holding elections, Mr. Gerry emphasized another point that has current application.

He pointed to the possibility that the National Government, if in arbitrary hands, might abolish the secrecy of the ballot and order elections at remote places and then said:

> Gentlemen will tell me that these things are not to be apprehended; but if they say that the Government has the power of doing them, they have no right to say the Government will never exercise such powers, because it is presumable that they will administer the Constitution at one time or another with all its powers; and whenever that time arrives, farewell to the rights of the people, even to elect their own representatives.

I have been reading from the debates in the first Congress, but the statements are just as true today as they were then. I reemphasize what I have just read. It is proposed that a certain law be enacted and it is said, "Do not worry about this. The Goverment would not do this," or "it would not do the other." We are told by the men who framed the Constitution what our attitude should be. It was suggested at that time that more power should be given the Federal Government than would be used, from the standpoint of the States and the people. The people were told then, "But do not think the Federal Government would exercise it. Do not think it will not be reasonable."

Listen to what Mr. Gerry said:

> Whenever that time arrives—

That is, whenever some bureaucrat wants to exercise the power it is proposed to give him—

> farewell to the rights of the people.

Some Members of the Senate think that because there is temporarily written into some State laws an FEPC provision, the Federal law will not apply to them under the gun of the Federal bureaucracy. They will wake up some day, if the bill is written into law, and learn that there has been a "farewell to the rights of the people" on a national basis. The people could not afford and would not allow one industry to compete against another without the same restrictions, which would be in full force and effect. We should never vote for a bill to give bureaucrats certain powers on the assumption that they will never use them. The time will come when they will use them.

That is the attitude we must take toward this proposal to allow a Government agency to pass on the propriety of every act of hiring, firing, promotion, or demotion by an employer who has a Government contract. It is said that a Federal fair employment commission would rely on persuasion, negotiation, education, and conciliation. But, the fact remains, as Mr. Gerry said, that when we give any authority to the Government, we must assume that at one time or another all its powers will be used, and, when that time arrives, "farewell to the rights of the people."

Thus, when we consider the thinking of the men who determined the phrasing of our Bill of Rights amendments, the meaning of the amendments themselves—that the Federal Government is prohibited from assuming powers, where interference with personal liberty is involved, becomes unmistakably clear.

The same attitude may be found in the words of the great justices of our Supreme Court who have interpreted the Constitution from the time of its adoption down to the present.

Some of the decisions bearing on the points at issue here have been briefly mentioned. I shall now show in some historical sequence the development and reiteration of the idea that ours is a government of strictly limited powers, and that the limitations apply most forcibly where relations between individuals are concerned.

From the time when our Government was established there have been, of course, two schools of thought as to the way the Constitution should be applied. At the beginning, the Federalists, headed by Alexander Hamilton, believed in a strong Central Government; and the anti-Federalists, headed by Thomas Jefferson, saw the need for keeping the States as effective buffers against encroachment on individual liberty.

On the Supreme Court, our great Chief Justice John Marshall took a broad view of the authority of the Federal Government, as shown by his statement in summing up the case of *Gibbons* v. *Ogden* (9 Wheat. 1,211), in 1824, when, in speaking of State powers which "interfere with, or are contrary to the laws of Congress," he said:

> In every such case, the act of Congress, or the treaty is supreme; and the law of the State, though enacted in the exercise of its powers not controverted must yield to it.

But it also was Chief Justice Marshall who made the statement I previously quoted, and stressed the supremacy of the Constitution as guardian of the rights of the people, when he said:

> The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the Constitution is written.

Thus he asserted that, regardless of the comparative authority of Federal and State Governments in a particular situation, the limits of governmental authority are fixed by the Constitution itself.

A more restrictive view of the powers of the Federal Government than that taken by Marshall, especially in the field of regulating commerce, was taken by Chief Justice Taney, who said, in 1847:

> A State regulates its domestic commerce, contracts, the transmission of estates, real and personal, and acts upon all internal matters which relate to moral or political welfare. Over these subjects the Federal Government has no power. They appertain to State sovereignty as exclusively as powers exclusively delegated appertain to the general government. (*The License* cases, 5 How. 504, 588.)

Now certainly if the theory of Taney—that a State acts upon all internal matters which relate to moral or political welfare—is accepted there can be no question but what FEPC legislation would be invalid. It may be argued that Taney's doctrine has been vitiated by later decisions, but it was firmly grounded on the Constitution and, as I shall show by later citations, has been approved by many distinguished later occupants of the Bench.

We go back to the overriding and controlling decision in the civil rights cases of 1883. I am sure that when the distinguished Senator from North Carolina [Mr. ERVIN], who is our best constitutional lawyer, has an opportunity to ask me a question—which I hope will be soon—he will point out, as I have already done, that in 1961, which was only 3 years ago, the Court still held to the fundamental rule of 1883, namely, the holding that the 14th amendment applies to official action of States, and not to individual action, and is still the law of the land.

As I pointed out before the Senator from North Carolina [Mr. ERVIN] came into the Chamber, Justice Whittaker called attention to the fact that the case had never been overruled. He said, in effect, that we could not put much civil rights legislation on the statute books constitutionally without overruling it.

Mr. President (Mr. NELSON in the chair), I proceed with the historical discussion of the fundamental meaning of what the Federal Government was to do and the powers reserved to the States and to the people.

As a matter of fact, we find Chief Justice Marshall saying, in the case of *Ogden* v. *Sanders* (12 Wheat. 331–356):

> Individuals do not derive from government their right to contract, but bring that right with them into society; that obligation is not conferred on contracts by positive law, but is intrinsic. This results from the right which every man retains to acquire property, to dispose of that property according to his own judgment and to pledge himself for a future act. These rights are not given by society but are brought into it (p. 345).

Again, in 1852, in the case of *Philadelphia & Reading R. Co.* v. *Derby* (14 Howard 486, 487), we find the Court saying:

The rule of "respondent superior," or that the master shall be civilly liable for the tortuous acts of his servants is of universal application (p. 486). * * * Nothing but the most stringent enforcement of discipline, and the most exact and perfect obedience to every rule and order emanating from a superior, can insure safety to life and property (p. 487).

Now, it is evident that if you take away from an employer, through some such device as FEPC legislation the right to determine whom he shall employ, you deprive him of the freedom of selection which is necessary if he is to be held responsible for the acts of his employees.

In so doing, we would fly in the face of the Supreme Court which stated in the case of *Baker* v. *Norton* (79 U.S. 157) that "consent is the very essence of a contract."

In 1872 the Supreme Court decided a group of cases which have been reported under the title of "*The Slaughter House* cases" (16 Wallace 36), and the rule laid down in these cases as to the limitations of the 14th amendment has been accepted by the Court ever since that time.

The State of Louisiana had passed a law to regulate slaughterhouses near New Orleans and suit was brought on the ground that this law discriminated against certain citizens who had previously engaged in business and that it, therefore, violated the 14th amendment.

In its analysis of the amendment, which occupies more than a hundred pages of the reports, the Court discussed the meaning of the term "privileges and immunities," as used in article IV, section 2 of the Constitution, which says:

The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States.

It then said that the term "embraces nearly every civil right for the establishment and protection of which organized government is instituted"—page 76—but added that these rights, "which are fundamental"—page 76—have always been held to be "the class of rights which the State governments were created to establish and secure"—page 76.

The Court continued:

The constitutional provision there alluded to did not create those rights, which it calls privileges and immunities of citizens of the States. It threw around them in that clause no security for the citizen of the State in which they were claimed or exercised. Nor did it profess to control the power of the State governments over the rights of its own citizens.

Its sole purpose was to declare to the several States that whatever those rights, as you grant or establish them to your own citizens, as you limit or qualify, or impose restrictions on their exercise, the same, neither more nor less, shall be the measure of the rights of citizens of other States within your jurisdiction.

That is on page 77 of that case.

Turning then to the 14th amendment, the Court asked:

Was it the purpose of the 14th amendment, by the simple declaration that no State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States to transfer the security and protection of rights which we have mentioned to the Federal Government? And where it declared that Congress shall have the power to enforce that article, was it intended to bring within the power of Congress the entire domain of civil rights heretofore belonging exclusively to the States? (p. 77).

Rejecting such an interpretation of the amendment, the Court said:

The argument, we admit, is not always the most conclusive which is drawn from the consequence urged against the adoption of a particular construction of an instrument. But when, as in the case before us, those consequences are so serious, so far as reaching and pervading, so great a departure from the structure and spirit of our institutions, when the effect is to fetter and degrade the State governments by subjecting them to the control of Congress in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character, when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other and of both these governments to the people, the argument has a force that is irresistible in the absence of language which expresses such a purpose too clearly to admit of doubt (p. 78).

That is still the law of the land; and yet we are asked to enact a law for which there can be found neither affirmative support in the Constitution nor opposition, from a negative standpoint, with respect to all the principles governing property rights, contract rights, the right of association, and everything else that comes under the general category of civil rights embodied in the first 10 amendments to the Constitution.

The Court said it did not see in the 13th, 14th, and 15th amendments "any purpose to destroy the main features of the general system" of our Government. The opinion concluded:

Under the pressure of all the excited feeling growing out of the war—

That was the Civil War—

our statesmen have still believed that the existence of the States with powers for domestic and local government including the regulation of civil rights, the rights of persons and of property was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States and to confer additional power on that of the Nation.

But whatever fluctuations may be seen in the history of public opinion on this subject during the period of our national existence we think it will be found that this Court, so far as its functions required, has always held with a steady and an even hand the balance between State and Federal power, and we trust that such may continue to be the history of its relation to that subject so long as it shall have duties to perform which demand of it a construction of the Constitution or of any of its parts (p. 82).

In 1875, 3 years after the Slaughter House cases had been decided, the Court faced the question of State or Federal responsibility for action of one individual against another individual and clearly indicated the unconstitutional nature of such legislation as we are now considering.

In the case of *U.S.* v. *Cruickshank* (92 U.S. 542) the defendant was indicted for conspiracy under the Enforcement Act of 1870, which made it a crime for two or more persons to band or conspire together to injure, oppress, threaten, or intimidate any citizen, preventing him from exercising rights secured to him by the Constitution. The particular right involved in this case was the right to vote in a Louisiana election but the analogy to the claimed right to demand employment is clear. In the case of the statute involved in the Cruickshank case, as in the proposed FEPC bill, the purpose is to punish an individual for acts committed against another individual presumably when both are within the jurisdiction of the same State.

In rendering the decision of the Court in the Cruickshank case, Chief Justice Waite said:

The 14th amendment prohibits a State from depriving any person of life, liberty or property without due process of law, or from denying to any person equal protection of the law, but this provision does not add anything to the rights of one citizen as against another. It simply furnishes an additional guarantee against any encroachment by the State upon the fundamental rights which belong to every citizen as a member of society (p. 554).

The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the National Government is limited to the enforcement of this guarantee (p. 555).

It might also be noted that when the Cruickshank case was tried in the circuit court—Federal Cases No. 14897—Mr. Justice Bradley said:

It [the 14th amendment] is a guarantee against the acts of the State government itself. It is a guarantee against the execution of arbitrary and tyrannical power on the part of the Government and legislation of the State, not a guarantee against the commission of individual offenses; and the power of Congress, whether express or implied, to legislate for the enforcement of such a guarantee does not extend to the passage of laws for the suppression of crimes within the States. The enforcement of the guarantee does not require or authorize Congress to perform the duty that the guarantee itself supposes to be the duty of the State to perform (p. 710).

This statement was quoted—pages 638–639—with approval by Mr. Justice Woods of the Supreme Court 7 years later when he delivered the decision in the case of *United States* v. *Harris* (106 U.S. 629). In this case the Court reaffirmed the doctrine that action by one citizen against another individual was not properly within the purview of the Constitution. Dealing with a case in which citizens of Tennessee were indicted under a Federal statute for the crime of lynching, the Court declared the statute was unconstitutional and made this assertion:

A private person cannot make constitutions or laws, nor can he with authority construe them, nor can he administer or execute them. The only way, therefore, in which one private person can deprive another of the equal protection of the laws is by the commission of some offense against

the laws which protect the rights of persons, as by theft, burglary, arson, libel, assault, or murder. If, therefore, we hold that section 5519 is warranted by the 13th amendment, we should, by virtue of that amendment, accord to the Congress the power to punish every crime by which the right of any person to life, property, or reputation is invaded. Thus, under a provision of the Constitution which simply abolished slavery and involuntary servitude, we should, with few exceptions, invest Congress with power over the whole catalog of crimes. A construction of the amendment which leads to such a result is clearly unsound (p. 643).

That is what the court said. That is still the law. Yet we are being asked today to give Congress that power.

If the Court was right in the statement it made in United States against Harris, which I just now quoted, how much more unsound would be a construction of the Constitution or its amendments which would permit the Congress, as is proposed in FEPC bill to create a right by fiat and then undertake to go into the sovereign States to protect that newly created right?

I think we can say of this proposal, as the Court said in the Harris case:

The section of the law under consideration is directed exclusively against action of private persons, without reference to the laws of the State or their administration by her officers. We are clear in the opinion that it is not warranted by any clause of the 14th amendment to the Constitution (p. 640).

The following year, 1883—this is a very vital case—another important decision which has a bearing on this discussion was given by the Court in the so-called civil rights cases—109 U.S. 3, 25. The statements made in this decision are particularly significant because the Court was then composed almost entirely of men who were friendly to the 14th amendment and who had been appointed from States which did not secede. It could hardly be charged, therefore, that they had a bias in favor of States rights or against the Federal Government.

We heard a great deal of talk during the administration of President Franklin D. Roosevelt about Court packing. Congress marched up the hill and down the hill again, and finally defeated the Court-packing bill. Through a process of attrition the Court was ultimately composed of men favorable to the philosophy of what some have called the New Deal.

One does not hear too much about the fact that President Grant packed the Court to uphold the action of only 19 citizens in a very beautiful part of the Shenandoah Valley when they voted their county into West Virginia, and thereby disfranchised all Confederate soldiers and Confederate sympathizers. Those 19 people voted to take the county out of Virginia and put it into West Virginia.

After the war was over, those who had been disfranchised and did not want to be in West Virginia brought suit to be permitted to go back where they knew they belonged and where they wanted to be.

They did pretty well until they got close to the Supreme Court. Then President Grant did what Mr. Pickwick said, "This cannot go on." He packed the Court. The Court said, in effect, "You are just as wrong as you can be. Those 19 voters were a sufficient number to take the county out of Virginia and put it into West Virginia. It was a perfectly lawful election."

That is the same Court that made the decision on the 14th amendment, which it is proposed to violate. The Court said that the 14th amendment related only to State action.

That was the very Court that President Grant constituted to uphold the 13th, 14th, and 15th amendments, but primarily to let a county in the Shenandoah Valley go out of Virginia and into West Virginia.

Therefore, we can say of the FEPC proposal, as the Court said in the Harris case:

The section of the law under consideration is directed exclusively against action of private persons, without reference to the laws of the State or their administration by her officers. We are clear in the opinion that it is not warranted by any clause of the fourth amendment to the Constitution.

That was confirmed, as I said, in 1883.

In the civil rights cases the Court held unconstitutional a Federal statute passed in 1875 providing that anyone who denied equal privileges in hotels, boardinghouses, theaters, public conveyances and public amusements to another citizen because of his race or color was guilty of a penal offense.

After raising the question of whether Congress had the constitutional power to make such a law, Mr. Justice Bradley stated:

Of course no one will contend that the power to pass it was contained in the Constitution before the adoption of the last three amendments. The power is sought, first in the 14th amendment, and the views and arguments of distinguished Senators, advanced whilst the law was under consideration, claiming authority to pass it by virtue of that amendment, are the principal arguments adduced in favor of the power.

That is true about the FEPC provision. Distinguished Senators will say, "There is no question about its being constitutional. We dare anyone to take it to the Supreme Court." They did the same thing when they said that no hotel or motel may deny service to a Negro. Any person who did that could be put in jail. The same provision is in the bill. What did the Court say about such protestations of constitutionality? This is what it said:

The power is sought, first in the 14th amendment and the views * * * are the principal arguments adduced in favor of the power.

We have carefully considered those arguments, as was due to the eminent ability of those who put them forward, and have felt, in all its force, the weight of authority which always invests a law that Congress deems itself competent to pass (p. 10).

I would like to emphasize those words of the Court, because they suggest the grave responsibility that rests upon us in this debate. We cannot simply say that we will pass the law because we approve of its objectives and let the Supreme Court determine whether or not it is constitutional. We must recognize that other Justices, as Mr. Justice Bradley said he did in the civil rights cases, will feel "the weight of authority which always invests a law that Congress deems itself competent to pass."

But, I continue to quote from Justice Bradley's decision in the Civil Rights cases:

But, the responsibility of an independent judgment is now thrown upon this Court; and we are bound to exercise it according to the best lights we have. The first section of the 14th amendment (which is the one relied on) after first declaring who shall be citizens of the United States and of the several States, is prohibitory in its character and prohibitory upon the States. It declares that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person with its jurisdiction the equal protection of the laws."

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment (pp. 10 and 11).

Note that, please: "Individual invasion of individual rights is not the subject matter of the amendment."

Then the Court continued:

It has a deeper and broader scope. It nullifies and makes void all State legislation and immunities of citizens of the United States or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the law. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts and thus to render them ineffectual, null, void, and innocuous—this is the legislative power conferred upon the Congress and this is the whole of it.

It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation, but to provide modes of relief against State legislation, or State action, of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of State laws and the action of State officers, executive or judicial, when these are subversive to the fundamental rights specified in the amendment.

Positive rights and privileges are undoubtedly secured by the 14th amendment, but they are secured by way of prohibition against State laws and State proceedings affecting those rights and privileges, and by power given to the Congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must necessarily be predicated upon such supposed State laws or State proceedings and be directed to the correction of their operation and effect (pp. 11–12).

The Court cited several previous cases in support of this viewpoint and then continued:

An apt illustration of the distinction may be found in some of the provisions of the original Constitution. Take the subject of contracts, for example. The Constitution prohibited the States from passing any law impairing the obligation of contracts. This did not give the Congress power to provide laws for the general enforcement of contracts, nor power to invest the courts of the United States with jurisdiction over contracts so as to enable parties to sue upon them in those courts. It did, however, give the power to provide remedies by which the

impairment of contracts by State legislation might be counteracted and corrected; and this power was exercised (p. 12).

Remember that in this case the Court was considering legislation which was claimed, just as FEPC claims, to be for the preservation of civil rights and to prevent discrimination against minorities.

The decision stated:

If this legislation is appropriate for enforcing the prohibitions of the amendment, it is difficult to see where it is to stop. Why may not Congress, with equal show of authority, enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property? If it is supposable that the State may deprive persons of life, liberty, or property without due process of law (and the amendment itself does suppose this) why should not Congress proceed at once to prescribe due process of law for the protection of everyone of these fundamental rights in every possible case, as well as to prescribe privileges of inns, public conveyances, and theaters? The truth is that the implication of a power to legislate in this manner is based upon the assumption that if the States are forbidden to legislate or act in a particular way on a particular subject, the power is conferred upon Congress to enforce the prohibition. This gives Congress power to legislate generally upon that subject, not merely power to provide modes of redress against such State legislation or action.

The assumption is certainly unsound. It is repugnant to the 10th amendment to the Constitution which declares that 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 (pp. 14–15).

Still further emphasizing its viewpoint of the restriction of Federal powers, the Court said in this decision:

Civil rights, such as are guaranteed by the Constitution against State aggression, cannot be impaired by the wrongful acts of individuals unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; and invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if it is not sanctioned in some way by the State and not done under State authority, his rights remain in full force and may presumably be vindicated by resort to the laws of the State for redress (p. 17).

It is absurd—

Mr. Justice Bradley said—

to affirm that because the rights of life, liberty, and property—which includes all the civil rights that men have—are by the amendment sought to be protected against invasion on the part of the States without due process of law, Congress may, therefore, provide due process of law for their vindication in every case (p. 13).

This decision, from which I have quoted at such length was delivered 80 years ago but it is still sound doctrine, as is indicated by the fact that it was cited by the Supreme Court with approval in a 1948 case from which I shall quote before I have finished.

In the case of *Plessy* v. *Ferguson* (163 U.S. 537) the Supreme Court said:

Legislation is powerless to eradicate racial instincts * * * and the attempt to do so can only result in accentuating the difficulties of the present situation (p. 551).

The Court, in this case, cited the statement of Justice Bradley in the civil rights case:

It would be running the slavery argument into the ground to make it apply to every act of discrimination which a person might see fit to make as to the guests he will entertain or as to the people he will * * * deal with in other matters of intercourse or business (p. 543).

That certainly seems to apply to what is proposed in the FEPC bill.

The Court also said:

In determining the question of reasonableness it is at liberty to act with reference to the established usages, customs, and traditions of the people (p. 550).

In deciding the case of *United States* v. *Joint Traffic Association* (171 U.S. 505) the Court emphasized the limitation placed by the Constitution as a whole on the rights growing out of the commerce clause.

The power to regulate commerce has no limitation other than those prescribed in the Constitution—

The Court said, but it added:

The power, however, does not carry with it the right to destroy or impair those limitations and guarantees which are also placed in the Constitution or in any of the amendments to that instrument (p. 571).

Another statement which seems most applicable in our present discussion was that made by Mr. Justice Holmes, in the case of *Davis* v. *Mills* (194 U.S. 451) when he said:

Constitutions are intended to preserve practical and substantial rights, not to maintain theories (p. 457).

The idea that the considerations which cause a businessman to choose his associates can be limited or eliminated by a Federal statute without doing serious damage to our whole economic and social structure is a "theory," and clearly it is damaging to those "practical and substantial rights" which our Constitution was intended to preserve.

Then, in 1908, we come to the case of *Adair* v. *United States* (208 U.S. 161) in which the Supreme Court upheld the right of an employer to contract with his employees or their representatives without governmental interference.

In this decision Mr. Justice Harlan made this quotation from Cooley on torts:

A part of every man's civil rights is that he be left at liberty to refuse business relations with any person whatsoever, whether the refusal rests upon reason, or is the result of whim, caprice, prejudice, or malice; with his reasons neither the public nor the persons have any legal concern. It is also the right of the individual to have business relations with anyone with whom he can make contracts, and if he is wrongfully deprived of his right by others, he is entitled to redress (p. 173).

Making his own comment on this point, Justice Harlan said:

The employer and employee have equality of right, and any legislation that disturbs that equality is an arbitrary interference with the liberty of contract which no government can justify in a free land (p. 175).

Certainly it cannot be successfully argued that there is "equality of right" under a law which may compel an employer to hire an individual whom he does not choose to hire, but which does not require the employee to accept employment from an employer who is not to his liking for reasons of race, religion, or anything else.

The Court in the Adair case also said:

It is not within the function of government * * * to compel any person in the course of his business and against his will to accept or retain the personal services of another or to compel any person, against his will, to perform personal services for another (p. 174).

Discussing applicability of the commerce clause in this case, Justice Harlan said:

We need scarcely repeat what this Court has more than once said, that the power to regulate interstate commerce, great and paramount as that power is, cannot be exerted in violation of any fundamental right secured by other provisions of the Constitution (p. 180).

It must be admitted, of course, that the attitude of the Court in its interpretation of the commerce power has changed during the last 30 years, and that the doctrine of the Adair case, as doctrine, has been largely destroyed.

But, the statements made by Justice Harlan still stand as logical argument, and it must be remembered that in his dissenting opinion in the Adair case, Mr. Justice Holmes pointed out that the law prohibiting discrimination against union members involved a very limited interference with the freedom of contract.

In justification for this law Holmes argued:

The section is, in substance, a very limited interference with freedom of contract, no more. It does not require the carriers to employ anyone. It does not forbid them to refuse to employ anyone, for any reason they deem good, even where the notion of a choice of persons is a fiction and wholesale employment is necessary upon general principles that it might be proper to control (p. 191).

Thus, it cannot be assumed on the basis of this statement that the great liberal Justice Holmes would have approved a law such as FEPC which would result in requiring that an individual be hired, because this obviously is more than "a very limited interference" with freedom of contract.

To determine whether the commerce power is limited by the fifth amendment, we must balance the loss of individual liberty against the benefit resulting to interstate commerce. If the benefit to commerce is great and the loss of liberty quite small, it might logically be argued that the action is constitutionally justifiable, although we must remember, as the Chinese philosopher said, "One step begins a journey of a thousand miles." But, if the benefit to commerce is small and the loss of personal liberty to the employer great, the fifth amendment should be invoked to prevent the denial of due process of law.

I think it is notable that in the arguments for FEPC bills, although authority has been claimed at times under the commerce clause of the Constitution, no accompanying effort has been made to prove its value to interstate commerce.

There have been some generalized statements that discrimination in employment depresses wages for minority groups and, therefore, cuts mass purchasing power and constricts the market for goods and services in general. It would be difficult to prove, however, that FEPC would not have an exactly opposite result. When an employer denies employment, taking into consideration racial or religious grounds, he is not likely to do it simply for his own pleasure or through malice, but rather because it seems to his economic advantage. If an employer is forced to hire persons who would lower the profit capacity of his business because of their disrupting effect on employee morale, or some other reason, it stands to reason that his ability to offer high wages will be decreased, along with his profits, and the total contribution to commerce will be less than if he were permitted to build his organization in the most efficient manner.

In connection with our discussion of the limited extent to which the Federal Government might be justified in interfering with freedom of contract, as defended by Justice Holmes, it may be interesting to examine some statements made by an attorney who made a study of the Court decisions from the standpoint of one who favored further extension of Federal powers.

Writing in the National Bar Journal issue for June 1945 under the title "Individual Invasion of Individual Rights," Mr. Loren Miller, a member of the Kansas and California bars and one of the board of editors of that journal said:

> One of the anomalies of our constitutional system is the professed inability of the courts to find legal safeguards to protect individuals against invasion or deprivation of their rights by so-called private persons or groups.

He was writing in favor, we might say, of FEPC legislation or "civil rights" legislation, or whatever one may call it.

Writing as one who obviously deplored that state of affairs, the author of the article recalled some of the statements, which I have cited from the Civil Rights cases and reviewed later decisions he had found supporting the same viewpoint.

Then he said:

> It may be safely asserted that political subdivisions cannot bar Negroes from employment by law or ordinance but private employers, even when engaged on public works, may do so at will in the absence of legislation. Similarly, labor unions have long exercised the right of barring Negroes from membership on the basis of race even when by the device of closed shop contracts this discrimination deprived Negroes of all opportunity to work or where their right to represent employees was regulated by legislation.

He continued by saying:

> The list of permissible discriminations under the individual-invasion-of-individual-rights doctrine could be extended, but enough has been said to indicate that, so long as the State remains silent and does not require a discrimination by reason of race, color, or other unwarranted classification, the citizen is without judicial protection and, even in the event the States does overstep bounds, all the courts can do, or will do, is to strike down the offending rule, regulation, or law.

In support of this statement he cited the 1914 decision of the Supreme Court in the case of *McCabe* v. *Atchison Ry. Co. et al.* (235 U.S. 151).

This writer found some comfort in recent Court decisions forbidding discrimination by unions which had exclusive bargaining rights and concluded his article by advocating just such a dangerous doctrine as has been advanced in support of FEPC—that "the broad and underlying social effects of contemplated discrimination be stressed and the courts be urged to look at the end sought to be achieved rather than ground their decisions on the means used."

In other words—our courts should admit that the end justifies the means, constitutional or not.

But, returning to our review of Supreme Court decisions, we find that in 1915 the doctrine of the Adair case, was affirmed in the case of *Coppage* v. *Kansas* (236 U.S. 1) and that in this case Mr. Justice Holmes expressed his approval of establishing "equality of position between the parties in which liberty of contract begins."

In the case of *Buchanan* v. *Worley* (245 U.S. 60), the Court said:

> Property is more than the mere thing which a person owns. It is elementary that it includes the right to acquire, use, and dispose of it. The Constitution protects these essential attributes of property (p. 74).

But a man forced to hire an employee against his will is deprived of his right to use the property represented by his business.

In the Buchanan case, which dealt with property restrictions, Mr. Justice Day also said:

> That there exists a serious and difficult problem arising from a feeling of race hostility which the law is powerless to control, and for which it must give a measure of consideration, may be freely admitted. But its solution cannot be promoted by depriving citizens of their constitutional rights and privileges (pp. 80–81).

But that is what we are attempting to do. The Court has said that we cannot do it, but we will do it anyway.

Mr. President, that was the Supreme Court speaking. This is a doctrine which the FEPC seeks to override.

The decision in this case was modified in part by the case of *Shelly* v. *Kraemer* (334 U.S. 1), which was decided in 1947, but as I shall show when I come to that case the Court still maintained the principle of preserving individual property rights.

Again, in the case of *Wolff Packing Company* v. *Court of Industrial Relations* (262 U.S. 522), Chief Justice Taft said of the Kansas Industrial Court Act:

> It curtails the right of the employer on the one hand and of the employee on the other to contract about his affairs. This is part of the liberty of the individual protected by the guaranty of the due process clause of the 14th amendment. While there is no such thing as absolute freedom of contract, and it is subject to a variety of restraints, they must not be arbitrary or unreasonable.

FREEDOM IS THE GENERAL RULE AND RESTRAINT THE EXCEPTION

In rendering the decision in the case of *Truax* v. *Corrigan* (257 U.S. 312), Chief Justice Taft also said:

> The broad distinction between one's right to protection against a direct injury to one's fundamental property right by another who has no special relation to him and one's liability to another with whom he establishes a voluntary relation under a statute, is manifest upon its statement * * * (p. 329) the legislative power of a State can only be exerted in subordination to the fundamental principles of right and justice (p. 329). * * * Our whole system of law is predicated on the general fundamental principles of equality of application of the law (p. 332). * * * The Constitution was intended—its very purpose was—to prevent experimentation with the fundamental rights of the individual (p. 338).

In the case of *United States* v. *Wheeler* (254 U.S. 281) in which the successful argument was presented by Mr. Charles E. Hughes, who subsequently became Chief Justice, the decision of the Supreme Court cited once more, with approval, that part of the decision in the Slaughter House cases which asserted:

> It would be the vainest show of learning to attempt to prove by citations of authority that, up to the adoption of the recent amendments no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection, beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against ex post facto laws, bills of attainder, and laws impairing obligations of contracts. But, with the exception of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined, lay within the constitutional and legislative power of the States and without that of the Federal Government (p. 298).

Again, in 1923, in the case of Federal *Trade Commission* v. *Raymond Bros.* (263 U.S. 565) the Supreme Court, citing a number of its previous decisions, said:

> It is the right "long recognized," of a trader engaged entirely in private business, freely to exercise his own independent deal (p. 573).

Three years later, in the case of *Corrigan* v. *Buckley* (271 U.S. 323), the Court, speaking through Mr. Justice Sanford, upheld once more the rule that the 5th and 14th amendments were inapplicable to individual action.

The Court said:

> Under the pleadings in the present case, the only constitutional question involved was that arising under assertions in the motion to dismiss that the indenture or covenant which is the basis of the bill is void in that it is contrary to and forbidden by the 5th, 13th, and 14th amendments. This contention is entirely lacking in substance or color of merit (pp. 329–330).
>
> The fifth amendment is a limitation only upon the powers of the general government and is not directed against the action of individuals. The 13th amendment, denouncing slavery and involuntary servitude—that is, a condition of enforced compulsory service of one to another—does not in other matters protect the individual rights of persons of the Negro race. And the prohibitions of the 14th amendment have reference to

State action exclusively, and not to any action of private individuals (p. 330).

The Court in this case also repeated and accepted the statement from the Civil Rights cases that "individual invasion of individual rights is not the subject matter of the (14th) amendment" (p. 330).

In 1930 the Court once more indicated the limited nature of interference with individual rights which it would approve when, in the case of *Texas, N. & O. Ry.* v. *Brotherhood* (281 U.S. 548) it said:

The Railway Labor Act of 1926 does not interfere with the normal exercise of the right of the carrier to select its employees or to discharge them. The statute is not aimed at this right of the employers, but at the interference with the right of employees to have representatives of their own choosing (p. 571).

Then, in 1937, in the case of *NLRB* v. *Jones & Laughlin Steel Corporation* (301 U.S. 1), the Court asserted:

The (labor relations) act does not interfere with the normal exercise of the right of the employer to select its employees or to discharge them. The employer may not, under cover of that right, intimidate or coerce its employees with respect to their self-organization and representation, and on the other hand, the Board is not entitled to make its authority a pretext for interference with the right of discharge when that right is exercised for other reasons than such intimidation and coercion (pp. 45–46).

That is one of the latest decisions upholding the National Labor Relations Act, but it does not go far enough to authorize an FEPC. On the other hand, it deliberately denies that the Federal Government has any such power.

In other words, the limited restrictions permitted are aimed at abuse of the employers' rights and not at negation of those rights.

As Mr. Justice Brandeis said in the case of *Senn* v. *Tile Layers Protective Union* (301 U.S. 468):

A hoped-for job is not property guaranteed by the Constitution (p. 482).

And Chief Justice Hughes, in the case of *NLRB* v. *Fan Steel Metal Corporation* (306 U.S. 240), spoke of a company's "normal right to select its employees" (p. 259).

Renewed emphasis was given to the civil rights cases, from which I have quoted, in 1940 when the Circuit Court of Appeals, Fifth Circuit, cited them in the case of *Powe* v. *United States* (109 F. 2d 147) and stated:

Neither the 14th amendment nor any other part of the Constitution put the matters of conspiracies of individuals touching such matters within the power of Congress, but only gave power to correct wrong action by the State or its officers. The reasoning of these cases though opposed by some dissents is full and convincing, and the conclusion reached as to the effect upon Federal power of the 14th amendment has stood for more than two generations (p. 150).

The holding of the circuit court of appeals in this case is given emphasis by the fact that on further attempted appeal the Supreme Court denied certiorari by a memorandum decision (309 U.S. 679).

The conflict between the Bill of Rights and attempts to interfere with individual liberty was pointedly referred to by Mr. Justice Jackson in the case of *West Virginia Board of Education* v. *Barnette* (319 U.S. 624) in which he said:

The very purpose of a bill of rights was to withdraw certain subjects from the vicissitudes of public controversy, to place them beyond the reach of majorities and officially to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights, may not be submitted to vote; they depend on the outcome of no elections (p. 638). * * * If there is any fixed star in our national constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein (p. 642).

Now, how shall we square that statement with a law which would permit petty officials to prescribe the way in which an employer should select those who will work for him?

In the Barnette case the court also quoted Abraham Lincoln's query:

Must a government of necessity be too strong for the liberties of its people, or too weak to maintain its own existence? (p. 636).

It then went on to say:

Assurance that rights are secure tends to diminish fear and jealousy of strong government, and by making us feel safe to live under it makes for its better support. Without promise of a limiting Bill of Rights it is doubtful if our Constitution could have mustered enough strength to enable its ratification. To enforce those rights today is not to choose weak government over strong government. It is only to adhere as a means of strength to individual freedom of mind in preference to officially disciplined uniformity for which history indicates a disappointing and disastrous end (pp. 636–637).

Finally, I would direct your attention to the case of *Shelley* v. *Kraemer et al.* (334 U.S. 1), decided by the Supreme Court on May 3, 1943. In that decision involving restrictive covenants designed to exclude minority groups from the ownership or occupancy of real property, Chief Justice Vinson referred to the case of Corrigan against Buckley and said that case could present no issues under the 14th amendment, for—and I quote—"that amendment by its terms applies only to the States"—page 8.

The Chief Justice went on to say:

It cannot be doubted that among the civil rights intended to be protected from discriminatory State action by the 14th amendment are the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of that amendment as an essential precondition to the realization of other basic civil rights and liberties which the amendment was intended to guarantee (p. 10).

He referred to the Slaughter House cases and continued:

Since the decision of this Court in the *Civil Rights* cases (109 U.S. 3 (1883)), the principle has become firmly embedded in our constitutional law that the action inhibited by the 1st section of the 14th amendment is only such action as may fairly be said to be that of the States (p. 13).

Then Justice Vinson significantly added:

That amendment erects no shield against merely private conduct, however discriminatory or wrongful (p. 13).

After discussing in some detail the right and obligation of the Federal Government to prevent discriminatory action by States or by their agents, the Court's decision indicated that property owners could not come into Court to demand enforcement of restrictive covenants and said:

The Constitution confers upon no individual the right to demand action by the State which results in the denial of equal protection of the laws to other individuals (p. 22).

If this statement of the Court be accepted, how, then, could we justify a law that would permit an individual to go to a fair employment commission, or to a court, to demand action against another individual who refused to employ him? The would-be employee has the right to work or not to work for the prospective employer. If the employer is to have equal protection of the laws he must have a similar right to hire or not to hire.

The point involved here was well expressed by Mr. Donald R. Richberg in a discussion of the constitutionality of civil rights proposals when he said:

The great declared purpose of the Constitution was not to achieve an impossible equality among unequal human beings but to secure the blessings of liberty so that men could be free to be different and to realize their differing ambitions with their differing abilities. Every law which seeks to give a man a right to something which as a freeman he cannot gain for himself, must impose burdens and restraints on the freedom of other men.

Let us be watchful against every effort to create by law a right in one man to compel others to associate with him or to accept obligations to him in the domain of private enterprise or private life.

Next to Winston Churchill, my favorite British statesman was Edmund Burke, who said in his speech on Mr. Fox's East India bill in 1783:

The rights of men—that is to say, the natural rights of mankind—are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. If these natural rights are further affirmed and declared by express covenants, if they are clearly defined and secured against chicanery, against power and authority, by written instruments and positive engagements, they are in a still better condition; they partake not only of the sanctity of the object so secured, but of that solemn public faith itself which secures an object of such importance. Indeed, this formal recognition, by the sovereign power, of an original right in the subject, can never be subverted, but by rooting up the holding radical principles of government, and even of society itself. The charters which we call by distinction great are public instruments of this nature: I mean the charters of King John and King Henry III. The things secured by these instruments may, without any deceitful ambiguity, be very fitly called the chartered rights of men.

It is for the chartered rights of men that I am arguing today.

They are contained in our Constitution—"the greatest instrument," said Gladstone, "ever struck off by the hand and purpose of man."

In addition to winning freedom on the battlefield and serving as chief pilot when the new "Ship of State" was launched upon the troubled waters of international conflict, George Washington, who served as Presiding Officer of the Constitutional Convention and whose prestige enabled that Convention to report to the Continental Congress a more perfect Union, urged and begged us, in his famous Farewell Address, to preserve that Constitution.

Pending before the Senate today is a bill that violates that Constitution, strikes a blow at the sovereignty of the States, and seriously impinges upon the rights of the people thereof.

The saddest epitaph—

Justice Sutherland said years ago—

which can be carved in memory of a vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while there was yet time to save it.

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

Mr. ROBERTSON. I yield to the Senator from Alabama.

Mr. HILL. I heartily congratulate the Senator from Virginia. I have heard many speeches on the FEPC, but I have never heard an abler, more logical, or more complete speech than that which has been delivered by the distinguished Senator from Virginia. He comes from the great State of Virginia, a State made famous throughout the world for its great lawyers, statesmen, and orators. I am sure that today the Senator from Virginia has measured up to the immortal heritage of the great State of Virginia.

Mr. ROBERTSON. My colleague has praised me beyond my just desserts, but I am deeply grateful for his high tribute and kind words.

EXHIBIT 1

S. 2486

(Introduced by Senator MCNAMARA)

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 forty hours per week for the period) beyond which any overtime employment of such an employer shall be compensated by the employer at the overtime rate specified in this paragraph. Such overtime rate of pay shall be not less than two times, instead of one and one-half times, the non-overtime 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 forty 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 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."

S. 2487

(Introduced by Senator MCNAMARA)

A bill to amend the Fair Labor Standards Act to extend its protection to additional employees, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND PURPOSES

SEC. 101. This Act may be cited as the "Fair Labor Standards Amendments of 1964".

SEC. 102. The purposes of this Act are to—

(1) extend minimum wage and overtime protection to employees of certain laundry, hotel, motel, restaurant, and other food service enterprises; and

(2) consolidate and clarify the agricultural processing exemptions of the Act and narrow or remove exemptions for certain logging, transportation, and gasoline service station employees.

TITLE II—COVERAGE OF LAUNDRY, HOTEL, MOTEL, AND RESTAURANT WORKERS

SEC. 201. Section 3(m) of the Fair Labor Standards Act of 1938, as amended, is amended by inserting after the words "'Wage' paid to any employee includes", the following: "the value of tips or gratuities received and accounted for or turned over by the employee to the employer, and" and by inserting after the words "the fair value of such" in the second proviso to such section the word "tips", and a comma.

SEC. 202. Section 3(s) of such Act is amended by striking out the colon at the end of paragraph (5), inserting a semicolon in

lieu thereof, and adding the following new paragraph immediately preceding the proviso:

"(6) any such enterprise which has one or more establishments engaged in laundering, cleaning, or repairing clothing or fabrics if the annual gross volume of sales of such enterprise is not less than $1,000,000, exclusive of excise taxes at the retail level which are separately stated;".

SEC. 203. Section 6(b) of such Act is amended (a) by striking out "section 3(s) (1), (2), or (4)" and inserting in lieu thereof "section 3(s) (1), (2), (4), or (6)"; (b) by inserting after the words "the enactment of the Fair Labor Standards Amendments of 1961" the words "or 1964"; (c) by inserting after the words "by the Fair Labor Standards Amendments of 1961," the following: "or (iii) is brought within the purview of this section by the amendments made to sections 13(a) (2) or (3) or the repeal of section 13 (a) (10), (15), (17), (18), or (20) of this Act by the Fair Labor Standards Amendments of 1964,"; and (d) by striking out the words "effective date of such amendments" in paragraph (1) of such section and inserting in lieu thereof the words "date the provisions of this section became applicable to such employee by virtue of the enactment of the Fair Labor Standards Amendments of 1961 or 1964, as the case may be".

SEC. 204. Section 7(a)(2) of such Act is amended (a) by striking out "section 3(s) (1) or (4) or by an establishment described in section 3(s)(3)" and inserting in lieu thereof "section 3(s) (1), (4), or (6) or by an establishment described in section 3(s) (3) or (5); (b) by inserting after the words "the enactment of the Fair Labor Standards Amendments of 1961" the words "or 1964"; (c) by adding the following clause immediately after the words "by the Fair Labor Standards Amendments of 1961": "or (iii) is brought within the purview of this subsection by the amendments made to section 13 (a) (2) or (3) or to section 13(b) (1), (2), or (3) or by the repeal of section 7(c) or section 13(a) (10), (15), (17), (18), or (20) or section 13(b)(8) by the Fair Labor Standards Amendments of 1964; and (d) by striking out the words "effective date of the Fair Labor Standards Amendments of 1961" from subparagraph (A) thereof and by inserting the words "date the provisions of this section became applicable to such employee by virtue of the enactment of the Fair Labor Standards Amendments of 1961 or 1964, as the case may be".

SEC. 205. (a) Section 13(a)(2)(ii) of such Act is amended by striking out "hotel, motel, or restaurant, or".

(b) Section 13(a)(3) of such Act is amended by inserting after "any establishment" the following: "(except an establishment described in section 3(s)(6))"; and by inserting "commercial," after "transportation,".

(c) Section 13(a)(20) of such Act is repealed.

TITLE III—CONSOLIDATION AND CLARIFICATION OF EXEMPTIONS FOR HANDLING, PACKING, AND PROCESSING FARM PRODUCTS AND NARROWING OR REMOVAL OF EXEMPTIONS AFFECTING CERTAIN LOGGING, GASOLINE STATION, AND TRANSPORTATION EMPLOYEES

SEC. 301. Clause (3) of section 7(b) of such Act is amended to read as follows:

"(3) for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year in an industry found by the Secretary to be (i) of a seasonal nature, or (ii) characterized by marked annually recurring seasonal peaks of operation in the places of first marketing or first processing of agricultural or horticultural commodities from farms in which such industry is engaged in (A) the processing of cottonseed or (B) the ginning or compressing of cotton or (C) the making of dairy products or (D) the handling or packing or storing or preparing or first processing or canning of any other agricultural or horticultural commodities in their raw or natural state,".

SEC. 302. Subsection (c) of section 7 of such Act is repealed.

SEC. 303. Section 13(a) (10), (15), (17), (18), and section 13(b)(8) of such Act are repealed.

SEC. 304. Paragraphs (1), (2), (3) of section 13(b) of such Act are amended to read as follows:

"(1) any employee employed during the greater part of any workweek as a driver or driver's helper riding a motor vehicle in the performance of over-the-road transport operations (as defined by the Secretary) and with respect to whose service as a driver or driver's helper the Interstate Commerce Commission has established qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act, 1935; or

"(2) any employee of an employer which is an express company, sleeping car company, or carrier by railroad, subject to part I of the Interstate Commerce Act; or

"(3) any employee employed as flight personnel on an aircraft by a carrier by air subject to title II of the Railway Labor Act; or".

TITLE IV—EFFECTIVE DATE

SEC. 401. The amendments made by this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment, except as otherwise provided and except that the authority to promulgate necessary rules, regulations, or orders with regard to amendments made by this Act, under the Fair Labor Standards Act of 1938, and amendments thereto, including amendments made by this Act, may be exercised by the Secretary on and after the date of enactment of this Act.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 94 Leg.]

Aiken	Gruening	Morse
Allott	Hart	Morton
Bartlett	Hartke	Mundt
Bayh	Hayden	Nelson
Beall	Hickenlooper	Neuberger
Bennett	Hill	Pell
Bible	Holland	Prouty
Boggs	Hruska	Proxmire
Brewster	Humphrey	Ribicoff
Burdick	Inouye	Robertson
Byrd, Va.	Jackson	Russell
Byrd, W. Va.	Johnston	Saltonstall
Cannon	Jordan, N.C.	Scott
Carlson	Jordan, Idaho	Smathers
Case	Keating	Smith
Church	Lausche	Sparkman
Clark	Long, Mo.	Stennis
Cooper	Long, La.	Symington
Cotton	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dodd	McCarthy	Tower
Dominick	McClellan	Walters
Douglas	McGee	Williams, N.J.
Ellender	McGovern	Williams, Del.
Ervin	McIntyre	Yarborough
Fong	McNamara	Young, N. Dak.
Fulbright	Metcalf	Young, Ohio
Goldwater	Monroney	

The PRESIDING OFFICER. A quorum is present.

RIGHT OF PETITION

Mr. STENNIS. Mr. President, the Commercial Appeal of Memphis, Tenn, published an editorial on Thursday, March 19, 1964, which pointedly discusses the real facts about the so-called civil rights bill now being discussed by the Senate.

I commend this timely editorial to the careful reading of all Members of the Senate and I trust it will be of special interest to those who are doubtful about their positions on this vicious and unconstitutional civil rights bill.

The word is now getting over to the people of the country as to the real contents of the bill, and the people are beginning to make their views known.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RIGHT OF PETITION

Anti-civil-rights-bill mail flowing in to Senators from States in the North and Middle West and California has some lawmakers worried.

Their first impulse has been to blame this avalanche of mail on an organized advertising campaign. Several of the Senators charge that the advertising money, or a part of it, is coming out of Mississippi.

Perhaps. But there is nothing wrong with that. Money for so-called civil rights demonstrations conducted in the South has been flowing like a river out of the North and other sections for years.

The heavy pressure for passage of a strong civil rights bill has come from well-heeled organizations which have used advertisements, marches, sit-ins, lie-ins, boycotts, and street demonstrations. All of this has been done in the name of the right to petition the Government for changes in the law. Certainly that right is held equally by all who oppose the civil rights bill, or who think it is overly oppressive.

The same Senators who have defended the nonviolent protests of Negroes must be equally concerned about the rights and wishes of their constituents who are alarmed by the radical bill now before the Senate.

Actually, as readily as we admit the influence of advertising, it cannot convert a neutral populace into a concerted campaign of letterwriting. The people who are writing to Senators KENNETH KEATING and JACOB JAVITS, of New York, and to other lawmakers, were not inspired solely by published advertisements.

They have watched the civil rights groups block traffic, close down businesses, shut school doors—and even cause physical attacks on teachers inside schools. They have seen a new form of dispossession instituted, under which a child would be transported at bureaucratic whim out of his home neighborhood into a slum school, simply to satisfy the demands of race agitators. Some of these upset northerners have resorted to public demonstrations themselves, but they have hardly begun to match the attack they are now under.

The strength of the protest to the civil rights bill from residents of Northern States has come as a shock to some Senators. They have a right to be surprised since this opposition has been largely concealed until now. But so has the depth of meaning in the bill.

Not until they found their lives were to be manipulated by big government—in business, in education, in social life—did they recognize the magnitude of the attack on their own well-being.

Senators who are receiving mail condemning the civil rights bill are wearing blinders if they ignore it. They are jeopardizing their personal futures as Members of Congress if

they think it is motivated only by advertising.

They are now seeing the manifestation of the right to petition the Government, used by the majority to protect its constitutional rights.

THE PLIGHT OF THE NATION'S CATTLE FARMERS

Mr. CARLSON. Mr. President, when the administration declared "war on poverty" last month, it evidently forgot the Nation's cattle farmers.

The ever-increasing beef and meat imports and recent agreements on continued imports from Australia and New Zealand will further sacrifice the income of the livestock men of the United States in the interest of international trade and international policies.

Extended hearings have been held in recent weeks in the Senate Finance Committee and every witness has testified to the serious decline in livestock prices for the livestock producers of this Nation.

The Department of Agriculture has stated that agricultural income in 1963 was down $400 million as a result of reduced livestock prices. The year 1964 will be no exception, based on present prices and present imports of beef and meat products.

The average price of fat cattle has dropped below 20 cents per pound for the first time in many years. You have to go back to 1947 to find the price of Prime grade cattle as low as it is today.

Losses have been the rule in the cattle feeding business for three consecutive feeding periods, which covers a period of about 18 months, and the end is not yet in sight.

The decline in these prices resulted in a loss of income of over $1 billion in 1963.

I would be less than frank if I did not state that cattle numbers have increased during the past few years and that this is a factor in our present livestock markets, but it is also a fact that meat consumption has increased during the past decade from 63 pounds to 96 pounds per person, or an increase of about 50 percent. This increase is the result of a high living standard in our country, plus the fact that for the last several years, the livestock industry has carried on a promotion program to increase the consumption of meat.

Present imports and agreements reached by our Government assure imports of beef until 1966 will stay at the high level of 10 pounds per person. We have been able to absorb an average increase of 3 to 4 percent per year in beef imports since 1942 without adverse price effects. However, imports have continued to increase until now we import 11 percent of our beef consumption. This has resulted in disastrously low prices for our livestock producers.

The livestock industry is the most important industry in the State of Kansas. It also represents the largest segment of agriculture in Kansas. In 1962 cash receipts from livestock and livestock products totaled $683,102,000. This is equal to 53 percent of all cash farm receipts in Kansas during 1962. Kansas now ranks fourth in the Nation in cattle population, with a January inventory of over 5 million head for the first time in the State's history.

The economic well-being of the livestock producers and all agriculture is vital to the entire economy in Kansas.

In the April issue of the Farm Journal there appeared an editorial entitled, "The Beef and Sheep Men Pay." This is a factual, thought-provoking editorial that should be read by everyone interested in the future welfare of our livestockmen and our Nation's economy. I ask unanimous consent that the article may be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE BEEF AND SHEEP MEN PAY

"I am pleased," said Secretary Freeman of the voluntary agreement this country has just completed with Australia and New Zealand over meat imports. Judging by the cries of anger from the cattle and sheep country, he must be the only one who is.

The agreement allows these countries to ship in as much beef (and the Australians as much mutton) as the averages for 1962–63. That's 6 percent less than in 1963 but 10 percent more than in 1962. Furthermore they get an increase of 3.7 percent for the next 2 years, so by 1966 they'll be sending us more than in 1963.

What the agreement amounts to is that things won't get worse, but neither can they get much better.

U.S. stockmen wanted imports set at the average of 1958–63 period, or about half as much as now. Probably we could have gotten it. Why, then, was the level set so high? Simply because our Government has been trying to promote the idea of sharing markets around the world. We're about to go to the meeting of GATT (General Agreement on Tariffs and Trade) at Geneva, Switzerland, to sell the sharing idea. Our negotiators wouldn't want to admit that we ourselves had just put up the bars against anything. So the stockmen of the United States have been offered up as a sacrifice in our attempt to free up international trads. It's not surprising that they don't care for the role.

The cattlemen's plight is simply this: They sent 7 percent more beef to market in 1963 than in the 1958–62 period. Exports added another 1 percent. But our market can absorb an increase of only 3.5 percent to 4 percent without harm to prices. We brought on most of the trouble ourselves, by sending 1.25 million more cattle to market than the year before and making them an average of 19 pounds heavier (33 pounds for steers). We're keeping a record 106.5 million head out in the country, and a higher percentage of them than usual are cows, ready to produce more calves.

However, that's not the whole difficulty. At the very time of our acute distress, the Australians and New Zealanders were rushing an unprecedented quantity of meat here. In 1958, the Australians sold us only 18 million pounds of beef, but by 1963 were sending 517 million. Imports now furnish 11 percent of our entire supply. Our market has paid by far the highest prices in the world, and it has been wide open. Our tariff of 3 cents a pound has amounted to nothing.

Meanwhile other governments are offering their farmers more protection, not less. We got a foretaste of what the Common Market intends in the "chicken war," which we lost. Now Western Europe is trying to keep our feed grains out. Britain has recently established import quotas, as well as import prices, on both beef and pork to protect her stockmen. That's the way the rest of the world is sharing.

It's against that picture that our Government, in an attempt to set a shining example which no one is following, permits meat imports at record levels. This, by the way, is the same Government that recently wanted to graze retired cropland areas because "we need more meat."

Actually, should we get a drought we could have a real disaster on our hands. Our import agreement can't be abrogated without 6 months' notice. We'd better all pray for rain.

What can cattlemen do about it? Well, first, they will have to send less beef to market. Second, they can keep pressure on Congress and the White House for tougher import controls, even though denied them now. Third, they can refuse to be quieted by a little beef buying for school lunch programs and a Tariff Commission hearing, now likely to be meaningless. Failing all else they can resort to the ballot box next fall. That's one recourse they can't be denied, and we think they'll know what to do with it.

IOU NO. 18: THE MONTANA POWER COMPANY

Mr. METCALF. Mr. President, in my 17 statements to the Senate this year concerning electric power company regulation, rates, and advertising, I have only occasionally—and then incidentally—mentioned the major power company in my State. Today, I shall report some of the facts regarding the Montana Power Co., which supplies approximately four-fifths of the electrical consumers of my State.

THE MOST EXORBITANT RATES

Regulators and electric power companies generally agree that a fair rate of return is in the neighborhood of 6 percent. All recent surveys of power company earnings which I have seen, including those compiled by utility consultants and an investment company, show that the rate of return allowed the Montana Power Co. is the highest in the Nation.

Montana ratepayers must provide not a fair 6-percent rate of return—but an exorbitant 9 percent. And of course the earnings on common stock are higher than the rate of return. A 6-percent rate of return on investment frequently means a return of 10 percent or more for common stock in a company, because carrying charges on bonds and preferred stock are less than 6 percent.

The January 3, 1963, issue of Public Utilities Fortnightly reports the speech of Frank D. Chutter, utility analyst with Massachusetts Investors Trust, before the New York Society of Security Analysts. Mr. Chutter listed the 1960 electric utility rate of return for each State. Montana led the list, with 8.7 percent.

A utility consultant, Arnold H. Hirsch, computed rates of return for the largest electric utility in each State, for the years 1958 through 1960, by two methods. In the first instance, he computed the returns based on Federal income taxes actually paid. By this tabulation, which appeared in the May 1962 issue of Public Power, Montana Power led the list, with a return of 9.3 percent. Using the alter-

native method, based on normalization of Federal income taxes, Montana Power Co. also led the list, with 8.9 percent.

Last year the National Rural Electric Cooperative Association compiled a comparison of overcharges for 80 electric utilities based on taxes actually paid during the 1956–60 period and using data and accounting procedures of the Federal Power Commission. This study showed a Texas company and Montana Power Co., leading the list of overchargers. Montana Power had an average rate of return, over the 5-year period, of 9.4 percent.

The Montana Power Co., overcharge—over and above a 6-percent rate of return—totaled $39,391,000 from 1956 through 1960.

Electric power companies require a larger plant investment than many other industries. Therefore, it would be unfair to compare their revenue, as related to dividends and net profit, with some other industries. However, comparisons of dividends and net profit, as related to revenue, within the electric power industry, are valid and meaningful.

During 1962, according to the July 1963 Federal Reserve Bulletin, 15½ cents of each dollar paid by consumers to private power companies was net profit. In Montana, according to Moody's 1963 Public Utilities Manual, 25.8 cents of each dollar paid by consumers to the Montana Power Co., during 1962 was net profit.

According to the same sources, 11 cents of each dollar paid by consumers to private power companies in 1962 went to stockholders in the form of dividends. In Montana, 17.4 cents of each dollar paid by consumers to the Montana Power Co., went to stockholders in the form of dividends.

During 1962, net profits amounted to 9.5 percent of invested capital for the 35 largest private power companies, 10.9 percent for Montana Power Co.

Mr. President, I believe the foregoing supports the conclusion that the Montana Power Co. benefits from the most exorbitant rate structure of any major private power company in the United States.

Mr. President, the value of stock in the Montana Power Co., has increased fivefold since 1950, according to Moody's 1963 Handbook of Widely Held Common Stock. In other words, the person who had $1,000 worth of stock in the company in 1950 has had his investment almost amortized by dividends, and holds stock worth, at today's market value, approximately $5,000. This increase in stock value does not show by comparing market quotations in 1950 and 1963, because the company split its stock, three for one, in 1959.

Montana Power Co., unlike the neighboring Idaho Power Co., does not see fit to report to the Federal Power Commission the geographic location of its common stockholders. When asked several years ago the geographical distribution of its stock, by the late Senator Richard Neuberger, a company spokesman responded that approximately 85 percent was owned out of State.

The NRECA overcharge study to which I referred previously showed that each year during the 1956–60 period, Montana electrical consumers paid Montana Power Co. about $8 million over and above a 6-percent rate of return. With 85 percent of these $8 million in annual overcharges going out of State, we have an annual "export" of approximately $6.8 million, money which in a State with reasonable regulation would never have left the pockets of the Montana consumers and businessmen.

The company advertises that its industrial and commercial rates are already very low. If the $8 million in annual overcharges were reflected in lower rates for the 134,218—in 1962—Montana Power Co. residential customers, each family's annual electric bill would be reduced, on the average, by approximately $60, or $5 per month.

Montanans thus have more reason than citizens of any other State to refer to their principal "investor owned utility" by the initials of the phrase, "IOU."

The company's president draws an annual salary of $75,000. His holding of 2,022 shares of stock in 1950 have grown to 37,769 which, at the market price this month of 38½, are worth more than $1,450,000.

ADVERTISING

According to a survey conducted for the electric power companies by a research agency, about one-third of the IOU's spent more than 75 cents per customer in 1962—exclusive of ad production cost—on direct advertising in newspapers, radio, television, and outdoors. The electric companies plan to double, this year, the $2 million which they spent last year in their joint electric companies advertising campaign—ECAP.

The Montana Power Co. reported to the Federal Power Commission that it served a total of 156,539 electric customers in 1962, including 134,218 residential customers. It listed $165,946 in electrical sales expenditures for advertising. It listed $35,662 for national and local institutional advertising expenses. It listed $25,345 for "Information program re Buffalo Rapids and Knowles" dams, including $4,500 contributed to the Upper Columbia Development Council. I ask unanimous consent to put a Montana Power Co. report to the Federal Power Commission in the CONGRESSIONAL RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE MONTANA POWER CO.,
Butte, Mont., February 12, 1964.

FEDERAL POWER COMMISSION,
Washington, D.C.

Attention: Mr. Ralph F. Gates, Acting Chief Accountant.

GENTLEMEN: Your letter of January 29, 1964, addressed to Mr. J. J. Harrington, vice president and treasurer, has been referred to me for reply.

Below is the detailed information requested in your letter concerning the expenditures we reported in account No. 426 in our Annual Report Form No. 1 to the Federal Power Commission for 1962 under the heading, "Information Program re: Buffalo Rapids & Knowles Damsites," in the amount of $25,235.79:

The Standard Post	$6,449.55
Mailwell Envelope Co	3,185.78
Flathead Courier	102.90
Upper Columbia Development Council	4,500.00
Tom Greenfield, Inc	597.15
U.S. postage	7,754.49
Supplies from our stock	190.97
Company personnel engaged in mailing literature	2,454.95
Total as reported	25,235.79

Sincerely yours,

E. H. DUFFY,
Assistant Treasurer.

Mr. METCALF. Mr. President, the company listed $80,115.96 for "publishing and distributing information and reports to stockholders and certain other expenses."

While it appears that the Montana Power Co. thus was one of the biggest of the big advertisers, in proportion to customers, among IOU's, I want to be charitable where possible. I did not see many of the company's reports to stockholders. But I did receive indirectly the company's "Letter to Stockholders," subtitled, "Interim Earnings Statement," dated September 30, 1962. This was an eight-page brochure, with two pages devoted to a statement of income and six pages devoted to a personal attack on me. Perhaps that report to the stockholders should be charged to me, rather than the company.

RURAL ELECTRIC COOPERATIVES

Much of the criticism in the Montana Power Co.'s advertising is directed against the rural electric cooperatives, which receive 2 percent interest loans. Persons who have wondered why the rural areas are more costly to serve—and thus require special financing—will be interested in these comparisons:

Rural electric cooperatives, nationally, have 3.3 customers per mile.

The investor owned utilities, nationally, have 33.2 customers per mile, 10 times as much density.

Rural electric cooperatives, in Montana, have 1.5 customers per mile.

Montana Power Co. has 17.5 customers per mile, 12 times as much density, according to the 1963 McGraw-Hill Directory of Electric Utilities.

Despite cheap interest rates, rural electric cooperatives, with less density and less revenue, must put a larger percentage of their revenue into interest payments.

Nationally, rural electric cooperatives spend 7.4 percent of their revenue on interest.

Nationally, commercial utilities spend 6.2 percent of their revenue on interest.

In Montana, rural electric cooperatives spend 10 percent of their revenue on interest.

Montana Power Co. spends 7.1 percent of its revenue on interest.

Nationally, annual revenue per mile of line is $414 for rural electric cooperatives, $6,580 for investor-owned utilities.

In Montana, annual revenue per mile of line is $270 for rural electric cooperatives, $3,648 for Montana Power Co.

In 1963 the average domestic cost per kilowatt-hour was 2.31 cents for Montana Power customers, 2.23 cents for Montana rural electric cooperative customers.

Montana is the only State, except Hawaii, which has no local publicly owned electric utilities.

The Montana Power Co. does not indicate, in its reports to the Federal Power Commission or otherwise, to which account it charged the editorials which a company employee wrote for newspaper editors who wished to use his efforts as their own. Nor does it indicate whether the ratepayer or stockholder pays for their press releases, prepared in the name of county officials, concerning the payments made to the local government by Montana's largest property taxpayer, as the company bills itself. The phrase "taxpaying businesses" has finally been removed from the electric companies' national advertising. The president of the Montana Power Co. is a former president of the Edison Electric Institute, the electric company's trade association, whose managing director, Edwin Vennard, wrote in 1962 in the Electric Power Business that "in effect it is the customers who pay the electric company's taxes." But perhaps the former president of the Edison Electric has not read the managing director's book.

The Montana Power Co. also contributes to a variety of organizations around the Nation. This philanthropy is not publicized, but the ratepayers in Montana are entitled to know something about these expenditures and the recipient organizations. Members of this body will also be interested, because many other IOU's in other States, contribute to the same or similar organizations.

HARDING COLLEGE

From 1953 through 1961, Montana Power contributed $300 each year to the National Education Program, Harding College, Searcy, Ark. The college and NEP produce high school course outlines, films—including "Communism on the Map"—tapes for several hundred radio stations, and newspaper columns by the college president, Dr. George S. Benson. This Benson column enjoys wide circulation in the weekly press. The theme of much of the Harding College material is that the rich should be taxed less and the poor more. This philosophy fits in well with the rate structure in Montana.

In a 1960 newspaper column and in the Harding College National Program letter, Dr. Benson wrote that "any American who loves freedom and is willing to work, work, work to protect it can find intelligent directions and companionship in a John Birch Society group." President Robert Welch, of the John Birch Society, returned the compliment in his next issue of American Opinion, published by the John Birch Society.

AMERICA'S FUTURE

Another national column used in some Montana newspapers—when the subject matter deals in laudatory manner with the Montana Power Co.—is distributed by America's Future. Montana Power contributed $600 to America's Future in 1958, $400 in 1961. During 1961, the president of Montana Power also served as a trustee of America's Future. The editor of America's Future weekly is Rosalie M. Gordon, author of "Nine Men Against America," a book about the Supreme Court which was listed by the John Birch Society as one of three references to be consulted in the Birch Society essay contest, "Grounds for the Impeachment of Warren." Founder Robert Welch, of the John Birch Society, told the St. Louis Globe-Democrat in 1961 that his organization had sold more than 100,000 copies of "Nine Men Against America." America's Future distributes radio programs to 483 stations, and what it terms "millions of copies" of pamphlets. America's Future also has an "Operation Textbook," with the stated purpose of showing that "through the textbooks in the schools, particularly in the field of the so-called social sciences the progressive revolutionaries have done their most damaging work in the past quarter of a century." John Birch Society officials serve on the textbook evaluation committee. One of them, Dr. Hans Sennholz, contributing editor of the society's American Opinion, wrote in 1961 in the Freeman that the Peace Corps was adopted from the Communist Manifesto and is no different from Communist development projects.

FOUNDATION FOR ECONOMIC EDUCATION

The Freeman is published by the Foundation for Economic Education, which has long been a favorite charity of a number of IOU's. Montana Power contributed $1,000 to the Foundation for Economic Education in 1956, $500 in 1960 and $1,000 in 1961. The foundation also receives income from sale of publications such as "The United Nations: Road To War,"—$1.50—which states that the U.N. is "an instrument of unlimited government, tyranny, and war." The foundation's publication, the Freeman, is sent free to any college student who requests it, and readers are encouraged to enter subscriptions for students. Articles which have appeared during the 1960's describe the graduated income tax and the draft as the "two greatest intrusions on individual freedom in the industry of the Republic," attack rural electric cooperatives, urge corporations to be more selective—from their own self-interest viewpoint—in their donations to educational institutions. The president of the foundation urged businessmen to drop the word "fair" from the phrase "business is entitled to a fair profit," lest fairness lead to a planned economy.

AMERICAN ECONOMIC FOUNDATION

The Montana Power Co. contributed $370 in 1955 to the American Economic Foundation, which distributes "economic education" kits for elementary and high school students. AEF literature has characterized the progressive income tax as a "spite" tax. The general chairman of AEF, writing in the March 1961, issue of Public Service Magazine, singled out the electric utility industry as the industrial group showing high interest in his program, with "more than 50 privately owned power companies" having "recognized its importance and done something about it."

COMMITTEE FOR CONSTITUTIONAL GOVERNMENT

The House Select Committee on Lobbying Activities—Buchanan committee—in 1950 provided one of the few instances when the Congress and public obtained a partial view of IOU contributions to various organizations. The Buchanan committee reported that in 1950 Montana Power Co. contributed $200 to the Committee for Constitutional Government and also gave the Committee for Constitutional Government $2,465 for copies of John T. Flynn's "The Road Ahead." In his book, Flynn wrote that the "Socialist planners" had good reason to believe that "they have the private power industry on the run." As it turns out, the private power industry has the consumer on the run.

As I discussed in IOU No. 17 on March 18, according to the Library of Congress it was the Committee for Constitutional Government which complied, sold and circulated the phony Lincoln "quotes" with which the IOU's close their current propaganda film, "The Power Within."

Last fall two Montana Power Co. directors signed a letter circulated among Montanans soliciting contributions to the Committee for Constitutional Government, which was credited with successful leadership during the 87th Congress, with nationwide educational campaigns aimed directly at the grassroots.

Recipients were urged to mail checks for "$50, $100, $250, $500, $1,000 or more for a block of annual subscriptions to Spotlight—published by the Committee for Constitutional Government—at $10 each, to go to names you designate or to committee's screened list of opinion molders nationally."

INTERCOLLEGIATE SOCIETY OF INDIVIDUALISTS

The Montana Power Co. was 1 of 22 IOU's which, during 1961, contributed—most companies gave $200, some gave $100—to the Intercollegiate Society of Individualists. The founder of ISI, Frank Chodorov, now the organization's honorary chairman—both he and his successor, E. Victor Milione, have served on the national advisory committee of Young Americans for Freedom—is author of "The Income Tax—Root of All Evil." Mr. Chodorov also opposes local taxes, when used for education.

He wrote in "Human Events," whatever is wrong with the public school system is due to compulsory attendance laws and the compulsory taxes which support it. The public school is a socialized or politically monopolized institution.

None of the IOU's which contributed either $200 or $100 to the Intercollegiate Society of Individualists reported their donations in either their 1961 or 1962 annual reports to the Federal Power Commission, although one of the companies reported a $3 contribution to "veterans organizations."

Mr. President, it has not been a pleasant task to make this kind of a report to the Senate and to the people of my State. I have good friends who serve the Montana Power Co. The power company, in many ways, has done much for

Montana. I know that my colleagues can say the same about leading utilities in their States.

But there comes a time when the excesses of a favored segment of society must be noticed.

It is difficult to understand how an industry which has profited so much in this country can, through its advertising, its lobbying, its donations, so viciously attack its competitors—the rural electric and municipal systems, can attempt to destroy the tax structure upon which the Nation's continued existence depends, can feed the forces of suspicion which spread malice.

Mr. President, the extent of propaganda activities by the electric power companies is unknown. Tax-exempt organizations are not required to publicize their benefactors. Some power companies are not under Federal Power Commission jurisdiction. Some of the companies which are under FPC jurisdiction report only in general terms concerning their donations and contributions.

Mr. President, candidates for political office and organizations which seek election of candidates are required to publicize their contributions received. The public has the right to know what individual, what organization, seeks to elect or defeat a candidate for President Congress, State legislature, the county board of commissioners, and so on.

Does not the public also have the right to know who puts up the money for campaigns to impeach the Chief Justice of the United States, or to destroy the Nation through abolition of its principal source of revenue?

THE SERVICE OF SARGENT SHRIVER

Mr. McGEE. Mr. President, our Nation has been benefited greatly by a large supply of dedicated, realistic, and resourceful people who are willing to make some sacrifices to head agencies in our National Government.

The particular individual to whom I wish to call attention is Mr. Sargent Shriver, who is so ably directing the destinies of the Peace Corps, and, more recently, President Johnson's war on poverty.

He made a very remarkable and effective appearance on the "Meet the Press" television program last evening.

I ask unanimous consent to include in the RECORD an account of an interview with Mr. Shriver, which was published in the Washington Evening Star of yesterday.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A STRATEGY FOR THE WAR ON POVERTY

Question. Mr. Shriver, you now have two very demanding jobs: The Peace Corps and the war on poverty. What are your plans as far as the Peace Corps job is concerned?

Answer. My plans are to continue to do the job as long as the President wants me to do it. I have not had a discussion with the President about this particular point. I will say, in addition to that, that the Peace Corps over a 3-year period has now been able to create a substantial number of men and women who are fully familiar with its policies, procedures and programs.

Question. Your deputy, Bill Moyers, also has a second job as a special presidential assistant in the White House. Will it be possible for both of you to continue wearing two hats?

Answer. Yes. It is obvious that President Johnson can put somebody else into either of these jobs any time he wants to.

Second, in the last week I have brought two new Associate Directors here to the Peace Corps, Harris Wofford, back from Ethiopia; and Dr. Sam Proctor, who was the president of North Carolina Agricultural and Technical College. We have five associate directors. They are the top men in the Corps. Now is the first time that all five of these jobs have been filled at the same time.

In addition, over the last 6 months or 8 months, I have been bringing experienced Peace Corps men back from overseas to Washington and putting them into the key jobs here.

So we are beginning to get what the New York Yankees call "bench strength." We never had it before. We have it now, so that we are able to get along better today without a full-time Director concentrating exclusively on the Peace Corps than we could have at the beginning.

ON VICE-PRESIDENCY

Question. As far as the Vice-Presidency is concerned, are you a candidate? Could you take the job as Director of War on Poverty for a few months only—and then accept the vice presidential nomination.

Answer. No. First, I hope it is obvious that I am not a candidate. I haven't done anything even by way of lifting a little finger. For example, you will notice, I don't speak at political fund-raising dinners, and I don't go out to political meetings. It isn't that I am against such meetings or don't enjoy them. I used to do those things before I came to Washington. But I have curtailed all activity of that kind ever since I have been with the Peace Corps. So I am not at all behaving the way candidates behave when they are interested in jobs.

Second, it was my intention when I took the Peace Corps job to do it to the best of my ability. The same is true in this effort against poverty. Who knows, I might fall flat on my face. But I am neither looking for a job nor am I looking to get out of a job.

Question. Do you think the war on poverty will be tougher to organize than the Peace Corps was?

Answer. To me, organization is a question of people and not of a chart. If you can get the right people to handle particular sections of this war on poverty, and we are very fortunate in the Federal Government, it is really very easy to run it. So in many respects this is going to be an easier program to run than the Peace Corps.

SCATTERED RESPONSIBILITY

Question. How can you direct the poverty program when its important elements are scattered through departments?

Answer. That is a coordination job rather than a direction job. I don't think that anyone can actually direct other departments and it is not our intention to direct them.

Question. How will disagreements between you and a Cabinet officer be resolved?

Answer. If there were such a disagreement, we would resolve it just as we resolve any issue around here. I am not the kind of person who issues Jovian thunderbolts from the top of Mount Olympus. I have not run anything that way. I feel these are all problems that Bill Wirtz (Secretary of Labor) or Secretary Hodges (Commerce) or Secretary Freeman (Agriculture) or Secretary Celebrezze (Health, Education, and Welfare) or Frank Keppel (U.S. Commissioner of Education) or Stewart Udall (Secretary of the Interior) and I have a common interest in solving and there is not going to be this kind of cataclysmic difference of opinion about what should be done.

Question. Mr. Shriver, would you comment on these reports of great differences between you and the Cabinet members on how to run this war on poverty?

Answer. There just weren't all of those differences. It is one of the most exaggerated stories I ever read, as I keep trying to tell people. There were more differences about how the Peace Corps should be organized than there were about this.

When the Peace Corps got under way, it was in the early days of the Kennedy administration and there were 16 things going on that were new and most of the reporters were running around covering other stories. But in that room behind that wall—if those walls could speak—you would hear people arguing with each other about how the Peace Corps should be run—including the name. A third didn't like the word "peace" and a third of them didn't like the word "corps" and a third of them didn't like putting them together. We started with a great violence of opinion.

OPERATING JOB CORPS

Question. Can we talk a little now about how the new Job Corps will operate with its 100,000 young men?

Answer. There are two parts. One is a conservation component, to be run in conjunction with the Interior Department. It involves work on public lands and forests of the United States by small units, anywhere, let us say, from 50 to 200 men in a unit. The main thrust will be work, but there will also be some educational opportunities.

In addition, there will be the education component, a program of educational centers. Some people call them camps and it might be a Defense Department camp or an Agriculture Department facility and so on. These will be places where people will get basic education, if that is what they need.

Question. Reading, writing and arithmetic?

Answer. That is right. And there will be vocational training. For all, there will be physical education and there will be health education. There will be job orientation: They will be given instruction in how to apply for a job; how to fill out application forms; the necessity for being on time for a job; and how to behave on a job—instruction which many of these boys have never had.

There may even be opportunities for some to leave the confines of the center and get preapprentice work in an industrial enterprise or a plant operation.

HOW ABOUT UNIONS?

Question. Will the unions permit such men to work in a plant without belonging to a union?

Answer. These people would not be doing work which is now being performed by union people. Whatever they do will have to be done in cooperation with the unions. But they will not be going in and taking away jobs.

Question. In other words, no employer could use them as a way to get cheap labor?

Answer. No.

Question. How will you select the young men who come into these camps?

Answer. That will be the Selection Division's problem. But there are today 1,250,000 people who have been rejected by Selective Service who are potential candidates. In addition, there are about 1,500,000 between 16 and 20 years old who have never had a job and are out of school. Our theory is that out of this total of 2,700,000 youths we will be able to select 40,000 the first year who show a reasonably good chance of profiting from this program. Now, you say to me, "how are we going to find out which ones those are?" I don't know precisely how we

will do it but we will have exams, references, and interviews, and so on.

One thing we will not do. We certainly won't take the first 20 or 100 or 5,000 out of the delinquent population, narcotics addicts, and alcoholics. It is my personal belief that in these 2,700,000 people there is a terrific number of boys who are perfectly good guys.

CAN THEY BE CHANGED?

Question. Do you think the ones you choose will, on the basis of a year or two in these camps, be able to change their lives sufficiently so that they can pass an Army test or get and hold a job?

Answer. Yes, I do.

Question. What are you going to do about the rest of the 2,700,000 young men?

Answer. As soon as we gain experience, we hope to move up to 100,000. You have to remember that in some of the families from which we select a boy, he may be the first member who ever was given a chance to get out of poverty. As he escapes, it becomes clearer to the others in the family and they too can escape. He becomes not only an example to them but also of assistance to them in doing it.

Question. What kind of camps will these Job Corps facilities be?

Answer. They would probably be former CCC camps, or Department of Interior installations, or U.S. Forest Ranger sites, and so on. To the extent possible, we will use existing facilities.

Question. Will these camps be integrated?

Answer. Surely.

Question. Won't you find some border or Southern States won't take them because of this?

Answer. We have had integrated Peace Corps programs in North Carolina, Tennessee and Alabama. I suppose it is theoretically possible it would pose a problem, but you wouldn't have to use that place for a job center.

ON APPALACHIA

Question. Why isn't the so-called Appalachia program a part of your overall drive on poverty?

Answer. No. 1, it has been under development for a year, and I think the worst thing is to have something going along for a year and then, simply because something new comes along, say, "Now you have to stop that and start all over again and fit it into this."

Second, it involves about eight Governors who have been working very actively for a period of a year. Therefore, it is intrinsically different from what we are talking about.

Question. The biggest single element in this antipoverty program is the community action portion, isn't it?

ON WINNING THE FIGHT

Answer. In terms of money, it isn't quite the biggest. The largest amount of money, we plan, will be spent in the youth program. Community action will be the second biggest, but some people think in terms of long-lasting results it might be the biggest.

Question. Will we ever see the day when we can say that the war on poverty has been won?

Answer. This may not be a good example, but I can remember very well when kids were dying of scarlet fever, diphtheria, and other diseases. Those diseases are gone, so far as the United States is concerned, but doctors still are working on other diseases.

Now, I see this poverty effort in a similar light. Millions of people are stuck in poverty today. I would hope that as a result of this and other efforts, that over a period of years the number of people mired permanently in poverty will be almost eliminated in America. I think technically that can be done.

There will still be problems of health I am sure, and problems of education, and so on with these people, but not a genuine poverty problem.

Question. If this is successful, how many years will it take?

Answer. I really don't know. I have been asked that several times, and I would like to give a facile answer, but I don't know.

Question. Are you thinking in terms of decades, or shorter?

Answer. I don't know. I think it could be done shorter than that; yes. To me, the problem today is to do it. I don't think it is possible for anybody to say exactly how long or how much money it will take; only that it is essentially desirable from the point of good of American society, and it can be done.

SUCCESS OF OUR FOREIGN AID PROGRAMS

Mr. McGEE. Mr. President, the success of our foreign aid programs can be demonstrated by the fact that many nations which were once recipients of our assistance are now economically independent, and more nations are gradually joining that group of independent countries.

Many critics of foreign aid are continually heard to suggest that we are getting nowhere. As a matter of fact, as the very able director of that program, Mr. David Bell, has so well pointed out, 17 nations which had received foreign aid have already been dropped from our aid programs because they have arrived at the point where they can take care of themselves. He alludes to the fact that 14 more nations are on the way to economic independence.

I believe this to be a much more effective yardstick for measuring our progress than the carping criticisms which tend to suggest that we are not getting anywhere or that the programs are not effective in bringing about economic progress around the world.

I ask unanimous consent that an article dealing with the subject, which appeared in yesterday's Washington Post, be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BELL SEES MORE NATIONS OUTGROWING AID NEED

Foreign Aid Chief David E. Bell predicted yesterday that country after country will drop from U.S. aid rolls in future years because of growing ability to pay their own way.

Bell said 17 countries, mainly in West Europe, now are self-supporting after once getting U.S. assistance. Of the remaining 76 receiving U.S. economic help, 14 now are on their way to self-support, he said. He did not list the 14.

While some countries with big economic problems will take a decade or more to finance their own way, he said, "the process has begun for the developing countries—as it did in Europe some time ago—and in the following years it will be repeated in country after country."

Bell, who heads the Agency for International Development, made public a situation report in advance of the Monday opening of House Foreign Affairs Committee hearings on President Johnson's request for $3.4 billion in new oversea assistance funds for the coming fiscal year.

Bell's statement was in the form of a summary of the material the administration intends to present to Congressmen in support of the program. The Foreign Aid Director noted these changes in the program since it began 15 years ago with the postwar Marshall plan for Europe:

In 1949, 86 percent of U.S. aid went to West Europe and Japan. Today none of these countries is receiving American economic assistance.

Ten years ago 60 percent of U.S. aid went for military equipment and training. Today 70 percent of U.S. aid is economic.

Five years ago two-thirds of U.S. economic aid was in the form of gifts. Now two-thirds is in loans repayable in dollars.

The main focus of the program has shifted rapidly from arms and economic gifts to spending for development projects which speed up the economies of the aid-receiving countries.

More than 23 percent of U.S. economic aid in the Johnson budget will go to Latin America, compared with about 2 percent in the years 1948 to 1960. U.S. aid to Latin America in 1960 amounted to 53 cents per person in Latin America. It has climbed now to $2.59, the highest concentration of U.S. aid in any region.

ALLIANCE FOR PROGRESS

Mr. McGEE. Mr. President, there is no shortage of problems in the Alliance for Progress but it has become apparent that these problems have overshadowed the real progress that is being made in Latin America.

An indication of that progress is contained in an article which appeared Sunday in the Washington Post. This article quotes a news conference given by William D. Rogers, deputy coordinator for AID.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SUBSTANTIAL GAINS IN AID TO LATINS REPORTED BY UNITED STATES

A weeklong meeting of U.S. aid chiefs has disclosed unsuspected and substantial advances in the Alliance for Progress, William D. Rogers, deputy coordinator of the program, said yesterday.

Rogers gave this report at a special news conference attended by the 19 U.S. aid mission directors who returned from their Latin-American posts for the full-dress review.

A week ago President Johnson said "we are distressed" that the aid-and-reform program hasn't been more successful.

But Rogers presented an array of promising statistics and said they reflect a revolution in Latin-American attitudes that bodes well for better results. Local communities, private businessmen, and even military regimes were said to be pushing economic development.

Rogers said that in the week's meeting of mission chiefs "we found we are substantially further along than we thought." Some of the statistics given to newsmen on the results of the $1 billion a year U.S. aid:

By the end of the next fiscal year, U.S. aid will have helped build 326,600 housing units for lower income groups, build 36,400 classrooms, publish 11,210,000 books, make 300,000 agricultural credit loans, construct 2,120 water systems benefiting 24 million people, establish 624 health centers helping 8.8 million people and feed 22.6 million people through U.S. farm surpluses.

Rogers said that he believed by the end of the 10-year program in 1970 the goal of an

annual 2.5 percent growth rate in per person income will have been achieved in a number of the Latin American countries.

It will not be reached in others where there are political problems, he said, but he added that recent progress has made aid officials believe the goal can be reached.

THE FOREIGN AID PROGRAM

Mr. McGEE. Mr. President, there is a distressing tendency in the history of this Nation to let up our efforts when the worst of our struggles are over and thereby forfeit all or part of the end we sought.

Thus, we met the challenge of the Civil War but failed to implement the peaceful extension of the issues over which that war was fought. We have entered into several wars with the determination to preserve our Nation and eliminate warfare from the face of the earth and have then failed to make the further commitments, much smaller in terms of cost and sacrifice, required to solidify the position won at great cost in blood and money.

Mr. President, in the years immediately following World War II this Nation was exceedingly generous in its aid to those nations devastated by war. A free and prosperous Europe was the result. But now that our experiments seem to be paying off we fall back from the final commitment necessary to complete the job. An editorial in the Washington Post for March 22 presents an excellent analysis of how we, by lack of vision, are selling short our own capabilities for improving the world and our position in it. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TOO LITTLE

The tone of the President's foreign aid message and the amount of the appropriation for which he asks both reflect a disenchantment with foreign aid in Congress and in the country. He has sent to Congress the smallest request in the history of the program—a billion dollars for military assistance and $2.4 billion for economic assistance. He will be lucky if Congress does not cut this back.

The late President Kennedy was puzzled over the Nation's weariness about foreign aid and wonderingly asked, at one point, why we were tiring of a burden still relatively light and already yielding some progress. There is no disputing the fact that we are tiring. There is good ground to argue that we should not be weary of a task that, in the long view of history, we have only just taken up. What we really set out to do with economic assistance was a revolutionary thing. We acknowledged, by our very attempt, that mankind for the first time in human history, has within its grasp the opportunity to put an end to human want as it has been known in much of the world ever since the beginning of time. Until this generation, it was not within the reach of any society, however philanthropic, to rescue the rest of the world from the want and misery that had been the lot of most people from youth to age. It is only lately that we have awakened to the fact that by a miracle of economic organization we could conquer scarcity. We have arrived at a time when by the right use of resources we could confer on all men relative abundance, in terms of the basic needs of man. This is a purpose so staggering in its implications that it has not yet gained a general understanding.

Perhaps if it were better understood, if the real grandeur of its dimensions were better realized, there would be less impatience at our failure to achieve the millenium in a few short years. In terms of the aspirations of struggling people back to the dawn of history it is really the millenium that we barely glimpse ahead.

Our investment in this purpose, emotionally and financially, has been substantial, but it has not at all been commensurate with the possibilities involved. The privileged nations have been spending on this objective only about $3 a head each year in their investment among the developing peoples, as Barbara Ward pointed out in her Georgetown address here Friday. And while other nations, excited by the vision of a world made safe from want, have steadily increased their contribution—with France spending at the rate of 2 percent of its gross income and Germany, Britain, and Japan steadily increasing their contribution—the United States has allowed its input to drop toward one-half of 1 percent of its gross national income. We have been the first to weary of our exertions at well-doing.

We have been disturbed because the results have not been greater and swifter. The logical response to this disappointment would be a greater effort and not a lesser effort, some differing methods and not less exertion of any kind. The goal of a world living in unprecedented abundance ought to be sufficiently exciting for its own sake. But it can be and ought to be said that in such a world, the United States, by the narrowest standards of self-interest, will be more secure than it will be if worldwide want persists.

The President's proposals reflect our disappointments and our fears and not our hopes and expectations. He has sent to Congress a program that is not large enough in its financial commitment or large enough in those qualities that excite a great people to make great exertions. Congress no doubt will now set about to make both the appropriation and the vision even more limited. We slowly yield to others the leadership in one of the noblest undertakings of the civilized countries of the world.

QUALITY STABILIZATION VERSUS MONOPOLY

Mr. HUMPHREY. Mr. President, I am not surprised that opponents of the quality stabilization bill have chosen to remain silent about the significant passage in President Johnson's farm message relating to monopoly in the Nation's food distribution system.

For this passage, though seemingly related only to the monopoly threat to the country's 200,000 retail grocery stores, carries with it broader implications affecting our entire retail economy.

There are some 200,000 retail grocery stores—

Said the President—

but we know that one 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, such 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.

The President thus recognized the growing threat of monopoly to the American retail food market. And he clearly indicated his administration's concern over the affect which the forced elimination of the independent food retailer could have on the farmer, the consumer, and other segments of our economy. The reason for this administration's concern should be obvious to those who value our competitive free enterprise retail system.

The economic pressure generated by growing monopoly in the food distribution industry has meant fewer outlets for sale of farm commodities and for purchase of consumer needs. This concentration of economic power has to all intents and purposes provided a few giant operators the power to fix prices on both ends of the distribution spectrum. The producer, in this case the farmer, finding fewer outlets to purchase his produce, is soon at the economic mercy of those outlets which remain.

Thus, as the President noted, recent years have seen the development of vertical integration and contract farming to fit the pattern created by concentration of economic power. And of course the spiral continues along this production end of the spectrum, since such vertical integration and contract farming arrangements put even greater pressure on remaining independent farmers. The monopoly processes, like a cancer, is both destructive and self-generating.

We can therefore see that monopoly in the retailing of food is not a sealed economic package. It reaches back to develop the same monopolistic conditions in the production of foodstuff—and it reaches ahead, too.

On the opposite end of the spectrum, we find our American consumer, like the farmer, provided with fewer outlets from which to purchase his groceries. His freedom of choice—the essence of our free enterprise system—is sharply limited. As the cancer of monopoly spreads, one by one eliminating its retail competitors, the consumer soon finds himself at the mercy of a few giant food chains.

At this point, as economic history has demonstrated time and again, the relationship between the monopolist and those with whom he does business can be expected to change. For with competition killed off, those who hold concentrated power to buy and sell can virtually dictate to their suppliers and their customers.

Of course, the end result of this process can only be the complete destruction of the competitive free enterprise system in the American food marketplace. And this no doubt was the specter which impelled the President to ask that the Congress establish a bipartisan commission to "study and appraise" the current situation in the Nation's food distribution system.

Yet if monopoly ownership and concentrated purchasing and selling power threaten our food retail system, what about this same threat as it affects our overall retail economy?

Monopoly ownership threatens all segments of our independent retail economy. The concern which the administration has expressed for the future of our independent food distribution system logically applies to the entire retail distribution system.

The independent grocer faces extinction—and the same prospect faces independent retail operators throughout the country, whether they be grocers, jewelers, hardware dealers, and shoe merchants or general merchandise outlets.

Are the number of food retail outlets diminishing? So are the number of general retail outlets—at the alarming rate of over 1,200 a day.

Is retail economic power then becoming concentrated into the hands of a few food industry giants? The same situation is coming to pass in the general retail field. A spokesman for one of the emerging general retail giants even boasted to a congressional committee that control of the country's retail economy will within 10 years be held by "less than 50 mass merchandise organizations."

Is the farm producer being squeezed as a result of having fewer retail grocery outlets for his products? So is the independent manufacturer, who finds himself increasingly at the price-fixing mercy of a few giant outlets.

The parallel between the food retail and the general retail situation does not end here. So extensive have monopoly retail practices grown in areas throughout the country that many independent retailers have been driven to physically merge, on a retail sharecropper basis, into monopoly store operations. And how does this concentration of retail economic power affect the consumer? Here again there is a parallel between the food and general retail situations. The consumer may seem temporarily to benefit by the growth of general retail monopolies, as is the case with food monopolies. But when the point is reached where all competitive rivals have been eliminated, then the retail giant will have almost unlimited powers to fix such prices and establish such levels of quality as will suit his own narrow business purposes.

President Johnson has raised storm warnings regarding monopoly growth and economic concentration in the food industry. He has asked that a bipartisan commission be empowered to study and appraise economic concentration as it relates to food retailing. If such a commission is named, it might well begin its work by studying the economic evidence and appraising the conclusions reached by another bipartisan congressional group interested in preventing monopoly and preserving free competition in the Nation's overall retail economy.

I refer of course to the bipartisan group of Senators and House Members who are sponsoring S. 774 and H.R. 3669, the quality stabilization bill. This legislation, if not a cure-all to the present ills of the country's retail marketplace, nevertheless represents a considered effort to see to it that in the President's own words regarding the curbing of food retail monopoly:

> Business people may make appropriate adjustments and our Government may properly discharge its responsibility to the consumer.

What effect would the quality stabilization bill have on the growth of monopoly in the Nation's retail marketplace, including those segments of the retail grocery business as its provisions might cover?

The answer is that quality stabilization would serve as a check on predatory monopolistic retail practices by providing the manufacturer of brand-name merchandise some degree of control over the resale of his product. Under this provision, the independent brand-name manufacturer would be receiving only those same rights—no more, no less—as are now exercised by chainstores marketing their own private label merchandise. The retention of these rights over his product by the independent brand-name manufacturer would curb the giant operators' ability to exert competitive pressure on the independent retailer.

We believe that the continued existence of the independent retailer is the consumers' best hope for fair competitive price and good quality standards of merchandise. The force-down of prices by loss-leader marketing techniques is one prevalent method by which the retail giants hope to eliminate small, independent competition.

The elimination of such cutthroat marketing techniques, as they affect the the retail sale of manufactured products, is a primary aim of the quality stabilization bill. And this legislation would achieve this end in a manner entirely consistent with and beneficial to our free-enterprise system. Provisions of the bill are voluntary. No manufacturer would be required to come under its terms, unless he so desired, nor would anyone be required to distribute or retail any product.

These are factors to be seriously considered by any commission or economic study group that takes up the matter of concentration of ownership in our food retail industry. The President's recent message only substantiates what those of us who support quality stabilization have been saying for some time—our independent retail system is endangered by such concentration—and if it is to be saved the Government must take remedial action.

What remains now is for those who recognize this danger to free their minds of preconceived notions and to take another look at quality stabilization. We have come to recognize the economic problem—now let us recognize and do something positive about the best economic solution yet advanced in this area.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the motion of Mr. MANSFIELD that the Senate proceed to consider 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 public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. HILL. Mr. President, in the opening speech of this debate—on the very first day of the debate—I expressed my grave concern over the inherent dangers of H.R. 7152 to the basic tenets of our democratic system of government and to the principles on which it was conceived and founded. I urged that we carefully consider and ponder the consequences of any rash and expedient action to satisfy the demands and the clamor of any particular group at any given hour. Subsequent debate and discussion here on the floor of the Senate have confirmed my grave concern regarding the bill.

In my 40 years in the Congress of the United States, I have never seen a more sweeping or far-reaching piece of legislation, of any kind, sort, or description than the so-called civil rights bill now before us. Every American—north, south, east, and west—should be concerned with the bill and should fully understand it and its real consequences, for, Mr. President, in the name of so-called civil rights, this bill would trample on the established rights of the overwhelming majority of Americans; it would drastically change the system of laws and justice affecting all Americans; and it would cripple and, in many instances, destroy the constitutional liberties, freedoms, and safeguards fundamental to our form of government. It would place in the hands of the executive branch of the Government, and particularly, I may say, in the hands of politically appointed Attorney Generals of the United States, undue, unlimited, and excessive powers; it would increase to mammoth proportions the wave of Federal Government and Federal bureaucratic control over the lives of our people. In the name of so-called equal opportunities, it would grant special privileges to a particular group.

In short, the civil rights bill, H.R. 7152, would undermine the legal and political bedrocks upon which we base our American heritage of freedom, progress, and opportunity: separation of powers, limited executive authority, no special privilege.

These are the hallmarks of our American system, and they have been the hallmarks of our system since 1787, when the Constitution of the United States was ratified; and on the basis of these hallmarks we have grown to become the mightiest, most powerful, freest, and greatest nation on the face of the earth.

If for the sake of expediency, this Congress enacts legislation that disregards the very principles upon which this Nation was founded, that destroys the legal and political bedrocks upon which we base our American heritage of freedom, progress, and opportunity, that ignores constitutional guarantees and tramples

upon legal rights, we will have contributed to the rationalization of those who openly espouse disregard of the law, who call for massive acts of civil disobedience, and who pledge obedience only to a law of their own choosing; we will have succeeded in denying the overwhelming majority of American citizens certain of their civil rights, in order to grant special privilege to a few.

If for the sake of expediency this Congress enacts legislation that disregards the very principles upon which this Nation was founded, then we shall learn from sad experience the wisdom of the words of the late Justice Brandeis, who warned of the dangers of haste in the lawmaking process. He cautioned:

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent * * * The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding.

We see the example in the Pilgrims, who nearly 350 years ago fled Europe and sailed across the uncharted Atlantic to establish religious freedom. Once their colony was settled, their leaders oppressed other religious beliefs with an even greater intensity than they, themselves, had suffered. Some members of the colony had to flee, because once again they sought the very ideal upon which the colony was founded—but which then no longer existed—freedom to worship in one's chosen manner.

Mr. President, H.R. 7152 goes to the very heart of the questions of the balance of power among the separate branches of government, of the division of authority between the Federal Government and the States, of the protection that shall be afforded the accused in a civil case, and, more basically, to the question of the extent to which government shall control the businesses, the education, the recreation, the associations and—yes—the very lives of you, of me, of every American.

No object was more important to the founders of this Nation than to insure that its people would never again be subject to the despotic power exercised over the Colonies by George III and his ministers. Two principles embodying this object were woven into the basic fabric of our Government—separation of powers and limited executive authority. The patriots who survived the bitter ordeal of Colonial rule declared to all the world that those who were to be governed knew best how they should be governed and that Government should move only as consent flowed from the people.

Now, 188 years later, we are being asked to destroy these principles of separation of powers and limited executive authority. We are being asked to place into the hands of politically appointed members of the executive branch almost unlimited authority to exercise the vast powers of the Federal Government over virtually every facet of economic and social life in the United States. The exercise of these powers would so tip the balance of power of the executive branch that the division of authority as envisioned by our Founding Fathers and as yet contained as the written word of our Constitution would become passé. The Constitution would no longer serve as a safeguard for the right of the people to govern themselves. Consent would no longer flow from them.

Our Founding Fathers added a third basic feature to their blueprint for democracy, that is, that no class or group shall enjoy special privilege. In the opening speech of this debate I dwelled at length on how title II, the so-called and misnamed public accommodations section of H.R. 7152, violates all three of the basic principles of this blueprint for democracy. I submitted then and I submit again now that there is no way of justifying under either the 14th amendment or the commerce clause of the Consitution giving the Federal Government the power to tell a businessman whom he can or cannot select as his customers and how he may or may not use his own private property.

As I pointed out at that time, the application of the 14th amendment is limited to questions of State action and does not extend to transactions between private individuals. The commerce clause was a negative grant of power to be used to prevent States from interfering with the free flow of interstate commerce. The records of the Constitutional Convention clearly show that the purpose of the commerce clause was basically restrictive and was not meant as a source of national power. Perhaps James Madison, frequently referred to as the "Father of the Constitution," explained most concisely just what the commerce clause was intended to do when he declared that the power to regulate commerce "was intended as a negative and preventive provision against injustice among the States themselves rather than as a power to be used for the positive purposes of the General Government."

The U.S. Supreme Court has ruled again and again on the subject. In my earlier speech I cited the case of *Calder* v. *Bull*, 3 Dall. 386, 388 (1798), wherein the Court declared:

> The Legislature * * * cannot violate * * * the right of private property.

The Court ruled in the 1795 case of *Vanhorne* v. *Dorrance*, 2 Dall. 304:

> The right of acquiring and possessing property, and having it protected, is one of the natural, inherent, and inalienable rights of man. The preservation of property then is a primary object of the social compact.

One of the greatest judges ever to sit on the Supreme Court of the United States was Mr. Justice Story. Mr. Justice Story spoke for the Court when he wrote in the decision in the case of *Wilkinson* v. *Leland*, 2 Pet. 627, 657 (1829):

> The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least, no court of justice in this country would be warranted in assuming, that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority—a different doctrine is utterly inconsistent with the great and fundamental principle of a republican government, and with the right of the citizens to the free enjoyment of their property lawfully acquired.

Blackstone eloquently rebutted arguments that individual property rights ought to yield to what could be called the public good. He stated it in the following way:

> So great, moreover, is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community * * * the public good is in nothing more essentially interested, than in the protection of every individual's private rights.

Note Blackstone said, "in the protection of every individual's private right."

We will recall that section 335 of American Jurisprudence declares that:

> The right of property is a fundamental, natural, inherent, and inalienable right. In fact, it does not owe its origin to the Constitutions which protect it, for it existed before them. It is sometimes characterized judicially as a sacred right, the protection of which is one of the most important objects of government. The right of property is very broad and embraces practically all incidents which property may manifest. Within this right are included the right to acquire, hold, enjoy, possess, use, manage, insure, and improve property.

As I declared in earlier debate on this measure, and as has been so eloquently restated in the learned discussions of it that have since taken place, the so-called and misnamed public accommodations provision of H.R. 7152, if enacted, would stifle the very spirit of the American free enterprise system and undermine its most basic principles. It would invade and destroy the inalienable personal and property rights which our forefathers deemed indispensable to liberty. It would create a Federal right to "the full and equal enjoyment of goods, services, and facilities" of privately owned establishments. And let me remind the Senate again—these are privately owned accommodations we are talking about, not public accommodations. Public accommodations were desegregated by court action some years ago—including public accommodations at the airport in my hometown of Montgomery, Ala., and the other public accommodations in my State. It would deny to the owners of privately owned establishments the right to choose their customers. It would deny to owners of business establishments the right to use their private property as they see fit. It would deny to the accused the right to confrontation by his accuser. It would deprive the accused of civil remedies, which would deny him certain of his civil rights.

One of the fundamental rights of our Anglo-Saxon system of justice, along with the right of trial by jury, is the right of confrontation by one's accusers.

Mr. THURMOND. Mr. President, will the Senator yield for a question, with the understanding that he will not lose his right to the floor?

Mr. HILL. I yield for a question with that understanding.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the Senator from Alabama has brought out a very important point, under title II, the so-called public accommodations section of the bill. In speaking of private property, the Constitution of the United States, in the 5th amendment, provides:

No person shall be held—

To do so and so. Then it states:

nor be deprived of life, liberty, or property, without due process of law.

I ask the Senator this question: If a man is required to serve or sell to someone on his own private property whom he does not wish to serve or sell to, is that not depriving him of the use of his property, as was contemplated in the Constitution of the United States, which states that he shall not be deprived of it?

Mr. HILL. The Senator is exactly correct. It would deprive him of that use, not only as was contemplated by the Constitution, but as was cited by the Constitution as being a right that was absolutely insured. Under the Constitution he is insured that right. The bill would run roughshod over, and trample under, the rights contained in the Constitution, and take away from a man his constitutional right to the use of his own property according to his own wishes.

Mr. THURMOND. Is not the ownership, management, and control of property one of the distinguishing features as between the private enterprise system of America and the Communist system?

Mr. HILL. The Senator is absolutely correct. There is no feature of our Government that stands out in such contrast to communism as the very right to which the Senator has addressed himself—that of ownership and use of private property according to the desires and wishes of the owner. That is the very bedrock and foundation of our American free enterprise system.

Mr. THURMOND. When Karl Marx, the man in whose brain the theory of communism arose, who was born in 1818 in Germany, but who did not live to see Lenin take over Russia in 1917, 99 years later, made the statement that his goal in life was to dethrone God and destroy capitalism, was he not thinking more than anything else, when he referred to his goal of destroying capitalism, of destroying the right of ownership of private property?

Mr. HILL. That is what he had basically and primarily in mind, and that is what he was teaching through communism—and he was the father or author of communism. That is exactly what communism has brought about.

Mr. THURMOND. He said his goal was to destroy capitalism. Is not ownership of property the very heart of capitalism?

Mr. HILL. It is, indeed. It is the foundation stone of capitalism. Private property is the heart, the bone, the sinew, the very bedrock and foundation, of the capitalistic system.

Mr. THURMOND. In this country a man can own a farm; he can own a home; he can own a factory; he can own other property. In Russia a person cannot do that. When a young couple are married in Russia, the wife does not have the pleasure of looking forward to some day owning a little home over which she can preside like a queen. She does not have the right to look forward to raising a family in her own home, or planting a lawn or shrubbery and making it beautiful, knowing it will be her own. They cannot do that in Russia. Here in American we have the privilege of owning, and controlling property.

The so-called public accommodations title should be labeled "Invasion of Private Property." That would be a better term for it, because it would invade private property.

If this provision should pass, would it not set the precedent along the line of Government control of the private property of the citizens of America?

Mr. HILL. Certainly. It would not only open the door wide, but it would march in through the door the very thing the Senator is speaking of.

Mr. THURMOND. In the very fifth amendment I have referred to, in which it is stated that no person shall be deprived of life, liberty, or property, there is the following provision: "nor shall private property be taken for public use, without just compensation."

I do not know whether the distinguished Senator from Alabama has had the opportunity to read the testimony taken in the hearing before the Commerce Committee on a bill which was similar to the provisions contained in title II of the civil rights bill. In that hearing it was brought out that in Jackson, Miss., a widow was operating a restaurant. It seems her husband left her about $20,000. She went into business and invested in a restaurant at the airport. A few Negroes applied for service, and she explained that her restaurant was for white people. However, they demanded service, and she was later ordered to desegregate the restaurant. When she did, the Negro people did not patronize the restaurant any longer, and the white people stopped patronizing the restaurant. As a consequence, she lost her business. The poor widow lost her $20,000 investment in the business, and she had to go out of business entirely.

Does not the Senator feel that the order she received to desegregate her business was an invasion of her private rights, an invasion of her rights in property, of her right to operate the restaurant as she saw fit, so long as she did not hurt others; and that there was a real, actual, practical taking of her business and property without compensation? Nobody compensated her when she was required to desegregate against her wishes.

Mr. HILL. It was indeed a very clear, direct, specific invasion of private property. As the distinguished Senator from South Carolina, who is a distinguished member of the Commerce Committee, and who heard the testimony, so well says, it amounted to a taking. It was a taking of her private property without due process or compensation or award to her for it.

Mr. THURMOND. If anyone should obtain an injunction to restrain someone from violating title II, the so-called public accommodations provision, and the case in taken to court, is not the provision in the 1957 Civil Rights Act as follows: If the punishment is more than 45 days in prison or more than $300 fine, the accused will get a jury trial; but if the fine is $300 or less, or 45 days in prison or less, the accused will not get a jury trial. Does not that violate the Constitution of the United States, which provides that when a person is charged with a crime he shall get a jury trial, and makes no exception with respect to punishment of 45 days or a $300 fine, but merely provides that if a person is charged with a crime, he shall get a jury trial?

Mr. HILL. He shall have that right. As the Senator well knows, the language in the Constitution is as clear, specific, and direct as it could be. It is a right which a citizen has, and which, under the Constitution of the United States, no one can take away from him.

Mr. THURMOND. Under this procedure, under the so-called public accommodations section, if a man were brought up for contempt before a judge for violating this provision, if he were tried under civil contempt proceedings, which means to bring about compliance, there would be no jury trial. If he were charged with criminal contempt—and criminal contempt means a crime—he still would not get a jury trial of the punishment were $300 or less or imprisonment were 45 days or less.

As I stated, the Constitution is absolutely clear on this question; when a man is charged with a crime he is given a jury trial. Is not this one of the most obnoxious, objectionable, and unconstitutional provisions of the entire civil rights bill?

Mr. HILL. It is one of the most iniquitous, objectionable, and obnoxious provisions in the bill, that a man should be denied his constitutional right of trial by jury, a right which the Anglo-Saxon people have cherished, fought and died to protect and preserve since Magna Charta in 1215.

Mr. THURMOND. Does not the sixth amendment in the Constitution entitle a man to a trial by jury when he is charged with a crime; and when the bill attempts to substitute some other method, is that not an effort to get around the Constitution of the United States and deny him the right to a trial by jury, giving powers to a judge which the Constitution does not give?

Mr. HILL. The Senator is correct. I believe the Senator will agree, upon examination of the debates at the Constitutional Convention in Philadelphia, and further examination of the debates in the conventions held by the several States when they met to determine whether they would ratify the Constitution, that if they had had any idea that this great, fundamental right of trial by jury would be denied and not in every way safeguarded and guaranteed by the Constitution, we would not have had a Constitution.

Mr. THURMOND. Did not a great many States object to signing the Con-

stitution at that time, for fear that these individual rights, such as freedom of the press, freedom of religion, freedom of speech, the right to trial by jury, the right to petition the Government, the right to prevent the quartering of troops in a person's home, and all the other rights which are given in the first 10 amendments to the Constitution, would not be protected? Did the framers of the Constitution not have to promise the States that a Bill of Rights containing these rights would be presented later, before the States would sign the Constitution; and was it not presented later, and adopted 4 years later, in 1791?

Mr. HILL. A solemn promise was given that those rights would be embodied in the first 10 amendments to the Constitution—which we know today as the Bill of Rights—and the records of the Constitutional Convention show that a solemn promise, a definite assurance, was given that they would be included and become a part of the Constitution. Otherwise, the Constitution itself would never have been ratified.

Mr. THURMOND. Was not one of the grievances set out in the Declaration of Independence when we declared our independence from Great Britain, that the citizens of this country were not receiving jury trials; and were not the citizens who attended the Constitutional Convention convinced that this should be a part of the Constitution; and was not a promise made that this right would be made a part of the Constitution? Was it not made a part; and has it not been a part of the jurisprudence of this country ever since that time?

Mr. HILL. Not only has it been a part of the jurisprudence, but there is no right more fundamental, more sacred, or more explicit than the right of trial by jury.

Mr. THURMOND. I thank the able and distinguished Senator from Alabama for the great speech he is making in the Chamber today, and for the wonderful service he is rendering the people of America in analyzing the bill and bringing out the important facets which are so clearly unconstitutional. They are unwise, unnecessary, and would do great harm to our form of government.

Mr. HILL. Mr. President, I wish to thank the distinguished Senator from South Carolina for the timely and excellent contribution he has made today in asking these questions and in presenting these matters in such a fine way. I am grateful to him.

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

Mr. HILL. I yield.

Mr. McINTYRE. Referring to the colloquy between the Senator from Alabama and the Senator from South Carolina, do I correctly understand that the Senator from Alabama is suggesting that for Congress to require places of public accommodations not to discriminate would be a taking of private property without due process of law, in violation of the fifth amendment, and would, in fact, interfere with powers reserved to the States under the 10th amendment to the Constitution?

Mr. HILL. That would be the effect of it. That would be the effect of going into a man's private place of business and telling him how he shall operate that business, after he had set up the business and bought the fixtures and whatever else he may need to use in his business, and tell him what he must do and what he must not do in using that business.

Mr. McINTYRE. The Senator would include motels and hotels and other places of a similar character?

Mr. HILL. Yes. Whenever we tell a man under those conditions what he cannot do or what he can do, we are interfering with his right to use his private property, and we are taking away from him the cornerstone and the basis of our great American free enterprise system.

Mr. McINTYRE. Granting that such places are private business, so long as they are engaged in offering to the public their services or their merchandise, there is sufficient constitutional support for the statement that, so far as the fifth amendment is concerned, just about all Federal regulatory legislation is, to a certain extent, a limitation on the use of private property.

As the court has said:

> It is the essence of regulation that it lays a restraining hand of self-interest, and that advantages from the regulation commonly fall to others.

That was stated in the court in *Wickard* v. *Filburn*, 317 U.S. 111. It was also recited in *German Alliance Insurance Company* v. *Kansas*, in 233 U.S. 389.

Mr. HILL. The American free enterprise system is a profit system. We want it to be that. People go into business so they can make a profit. That is our system. Whenever we do anything to interfere with the operation of a man's business, when we deprive people of the right to operate their business as they see fit, to use their property as they see fit, or to manage their property as they see fit, we are taking from them a fundamental right which they have always enjoyed under the Constitution of the United States and under our private enterprise system.

Mr. McINTYRE. May I ask the distinguished Senator if in the law of his State or in local ordinances in his State there are provisions for segregated operation, and people are operating their businesses in that fashion, what could be more unfair? What better proof is needed of State-aided discrimination?

Mr. HILL. The Senator is talking about cases in which the Supreme Court has struck down ordinances. These ordinances were passed under the power of the State. The ordinances have been stricken down. There was a case, in South Carolina, of Peterson against the city of Greenville, in which the U.S. Supreme Court struck down those ordinances.

Mr. McINTYRE. Regardless of that, the fact is that we know that in the South and in many other States the law provides that a person who is engaged in offering public accommodations is told, "You will segregate."

Mr. HILL. Those ordinances have been stricken down. They are not there now. What the Senator from New Hampshire is proposing is to have the strong arm of the Federal Government reach in and take this property from the man who owns it.

Mr. McINTYRE. Oh, no.

Mr. HILL. That is the result. The Senator would tell a man who operates his own business, "You must operate it in this way. You cannot operate it any other way." That is the effect of what the Senator is saying.

Mr. McINTYRE. In many businesses conducted in the South today the owners are told by State action, "This is what you are to do."

Mr. HILL. Those ordinances have been struck down. If the Senator will read the case of Peterson, he will see that those ordinances have been struck down.

Mr. McINTYRE. I am not referring to ordinances alone. I am also referring to customs. That is the whole tenor and the whole atmosphere involved in this situation.

Mr. HILL. The ordinances, of course, are based on State action. Cities have no power except what they are permitted to do by the State.

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

Mr. HILL. I yield.

Mr. THURMOND. The theory on which title II rests is the 14th amendment and the commerce clause, according to the proponents. I should like to ask the distinguished Senator whether Congress passed a statute almost word for word, or similar, at least, to the statute that is now proposed to be passed in title II, in 1875; and was not that statute passed upon by the Supreme Court of the United States in 1883, and declared by that Court to be unconstitutional?

Mr. HILL. The Senator is exactly correct. It is a well-known case, and was decided in 1883.

Mr. THURMOND. Was there not verbiage in that decision, in a case which had been brought under the 14th amendment, which showed that it could not be sustained under the commerce clause?

Mr. HILL. The Senator is exactly correct. It would not hold up under the commerce clause or under the 14th amendment.

Mr. THURMOND. The decision has verbiage in it to that effect. Is that correct?

Mr. HILL. It has, indeed.

Mr. THURMOND. In the decision in Peterson against Greenville, did not the Supreme Court hold that the State law provided for segregation, and therefore was a State action, and that the 14th amendment prohibited State action in such matters?

Mr. HILL. That is correct.

Mr. THURMOND. There is nothing in the Constitution to prohibit an individual, when there is no State action involved, from taking any steps he wishes to take in handling his own property in the way he sees fit under the Constitution of the United States. The Constitution goes the affirmative way and provides that a person shall not be deprived of his life, liberty, or property. Is that correct?

Mr. HILL. The Senator is exactly correct.

Mr. President, I say again that every American—north, east, south, or west—should be concerned with the bill before us and with every provision of it, for its effects and far-reaching, implications are not sectional. If the bill is passed, it would trample on and destroy rights of Americans on either side of the Continental Divide and on either side of the Mason-Dixon line.

I say again that I am against giving the Federal Government the power to invade the private property and property rights of businessmen throughout the Nation and being able to tell the owner or proprietor of a business how he can run it and how he can use it.

I am against having the Federal Government tell a restaurant owner in San Francisco, Calif., whom he must serve, just as I am against having the Federal Government tell a hotel operator in Des Moines, Iowa, whom he must admit as guests.

I am against having the Federal Government tell a barbershop owner in Providence, R.I., whom he must shave, just as I am against having the Federal Government tell the steel industrialist of Birmingham, Ala., as well as the car manufacturer of Detroit, Mich., whom he may hire, fire, or promote.

I am against having the Federal Government tell my State, or any other State, who within its boundaries is or is not qualified to vote, just as I am against denying to the people of Alabama or to the people of any of the 50 States of this Union the right to trial by jury.

I am against denying to the people of my State, of your State, or of any State the benefits of Federal programs for which they pay taxes, because they may refuse to surrender to social edicts of the Federal Government, as concocted by the Attorney General and the sociologists and bureaucrats of the agencies, committees, and commissions set up by this bill.

These are the purposes and goals of the so-called Civil Rights Act of 1963—title by title. I submit again the proposition that those who would demand these special privileges today may well find there are no rewards tomorrow.

Let us take a closer look at the individual titles of H.R. 7152, and see what they do.

Title I purports to add to the maze of laws already on the statute books to prosecute alleged voting violations in Federal elections. It asks the Congress to strike down the provision of the Constitution of the United States that leaves the setting of voters' qualifications to the individual States, and to record for history that the wisdom of the authors of that great document was wrong and that their toil, all their labors, and all their sacrifices were in vain. It asks the Congress to declare that the will of the ratifying conventions and the people of the several States, who gave so much at that time to bring this Nation into being be completely disregarded and overruled, and that their noble efforts in establishing this Union be erased from the pages of history.

First, let me say that there is no need for this proposed legislation—and no need for the Congress to waste its time in considering it. There are already on the books some six statutes to enforce voting rights.

In fact, last Friday, during the debate, the distinguished Senator from Georgia [Mr. TALMADGE] called attention not only to these 6 statutes, but also to 9 other statutes which would help enforce voting rights—a sum total of approximately 15 statutes, according to the distinguished Senator from Georgia.

As we know, there is section 242 of title 18 of the United States Code, which provides that any State election official who willfully denies to any qualified citizen of any race the right to vote may be fined up to $1,000 or be imprisoned for not more than 1 year, or both.

There is section 241 of title 18 of the United States Code which provides that any election official who conspires with another person to deny any qualified person his right to register and vote shall be fined not more than $5,000 or imprisoned not more than 10 years, or both.

There is another statute, section 371 of title 18, which provides punishment for any public official if he conspires to deny any person any right.

And there is section 1983 of title 42 of the United States Code which gives to any qualified person wrongfully denied an opportunity to vote the right to recover damages against the offending election officials and anyone conspiring with them. It also gives the injured party the right to preventive relief.

In addition to these statutes, the Attorney General has available Public Law 85–315, the Civil Rights Act of 1957, and Public Law 86–449, the Civil Rights Act of 1960, which provide for proceedings without jury and for voter referees appointed by Federal judge to "expedite" alleged voting denial and voting rights.

It is beyond the comprehension of any lawyer, layman, or lawmaking body to understand why additional laws are needed to enforce voting rights or to give redress to anyone who may be denied them.

As to the proposal in title I to automatically substitute 6 years of primary school education for the literacy test, let me say that I am one who still has faith in our written Constitution of the United States and in the wisdom of our Founding Fathers. I am not ready to break faith with those who toiled so laboriously to hammer out the document that has made and kept this Nation so great through the years and with those who in their ratifying conventions made the rights of the individual States to set their voter qualifications an absolute condition precedent to joining and forming this Union.

It is absolutely self-evident to anyone who examines the debates of the Constitutional Convention at Philadelphia and the debates which took place in the State conventions which met to ratify and act upon the Constitution, that there never would have been any Constitution but for the provision which would leave to the States the right to fix the qualification of the electors.

In the wisdom of our Founding Fathers, they balanced the rights of the people with the prerogatives of the various levels of government. The Constitution grants and it restricts; and in the very beginning it was clearly and carefully set out in article I, section 2, that the power of fixing the qualifications of voters is vested in the States. Article I, section 2, reads:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

There is no clearer language in the Constitution. There could be no clearer language. The language of the Constitution and the records of the Constitutional and ratifying conventions clearly show that Congress was not given any power to prescribe the qualifications for voting and that this omission was absolutely deliberate. I intend to go into this in "infinite" detail in another speech.

Some 124 years after the adoption of the Constitution, when the people of the United States saw fit to change their method of electing U.S. Senators, they provided, in the 17th amendment, as follows:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for 6 years: and each Senator shall have one vote.

Then there is this language:

> The electors in each State shall have the qualifications requisite for electors for the most numerous branch of the State legislatures.

The same language—clear, concise, direct, mandatory, compelling, and conclusive—appears in section 2 of article I. In fact, the express language of the 17th amendment, adopted in 1913, ratified and reaffirmed the wisdom and intention of the Founding Fathers and of the original States in providing that the qualifications of the electors for Members of the Senate should be the qualifications requisite for electors of the most numerous branch of the State legislature.

As we know, for half a century some of the finest, most patriotic, and noblest men and women in our country carried on the campaign for the removal of sex as a qualification for voting. But if we examine the record, we do not find anywhere that any leader in the cause for woman's suffrage ever suggested that women could by legislative enactment be granted the right to vote.

The Supreme Court decisions support and confirm what I have said about the power of the States over suffrage. There is a host of them. In addition, there is ample authority for the proposition that State-imposed literacy tests as a qualification for voting are in accordance with the Constitution. Let me read to the Senate what the Court said in *Guinn* v. *United States*, 238 U.S. 347. The Court spoke in clear, specific, and unequivocal terms. The Court said:

> Beyond doubt the amendment [the 15th] does not take away from the State governments in a general sense the power over suf-

frage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.

Proof of literacy as a condition to voting may be established as a qualification within a State's power under the authority reserved to the States by article I of the 17th amendment.

In 1959 the U.S. Supreme Court, in the case of *Lassiter* v. *Northhampton Election Board* 360 U.S. 45, put to rest any questions as to State authority to establish a literacy test as a condition to voting.

I quote from this decision, which was so recent as 1959:

We come then to the question whether a State may consistently with the 14th and 17th amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States, supra,* at 366, disposed of the question in a few words. "No time need be spent on the question of the validity of the literacy test considered alone since we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted."

The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.

Inasmuch as there are already adequate statutes on the books to enforce voting rights, apparently the only purpose of title I is to impose a Federal literacy standard on our States with respect to the qualifications of their voters in defiance of the Constitution of the United States and the laws of the land.

I have already discussed at great length title II, the so-called public accommodations section of H.R. 7152. I said in my first speech, the opening speech in this debate, that before the debate was over I would discuss and expose every title of the bill. I will, therefore, move on to title III, which has to do with the "desegregation" of public facilities other than public schools, which are reserved for title IV.

Actually there is little difference, if any, in the principle underlying both titles III and IV. Title III has traditionally been identified with the denial of the right to trial by jury. In the bill as originally introduced, title III kept this identity.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question, with the understanding that he shall not lose the floor?

Mr. HILL. Yes.

Mr. LAUSCHE. Earlier in his remarks the Senator enumerated a number of statutes providing criminal penalties against persons who deny another the right to vote on the basis of race, creed, or color.

In pursuance to which provision of the Constitution does he understand those laws to have been passed?

Mr. HILL. The 15th amendment would certainly be the main basis. Undoubtedly, it would be the 14th amendment.

Mr. LAUSCHE. The 15th amendment reads:

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.

Mr. HILL. So the 14th amendment would undoubtedly be the main foundation or basis for those statutes.

Mr. LAUSCHE. That is my understanding.

Mr. HILL. I think the Senator is exactly correct.

Mr. LAUSCHE. The Senator takes the position that other provisions of the Constitution set forth how the qualifications of voters shall be fixed in choosing either Senators or Representatives.

Mr. HILL. That is correct; section 2 of article I, and also the 17th amendment, which provides for the direct election of U.S. Senators. The 17th amendment contains the exact, specfiic, clear, conclusive language of section 2, article I. It makes it specific and clear that the States shall fix the qualifications of electors, because it states that the qualifications of electors for Senators shall be the qualifications as fixed for the electors of the most numerous branch of the State legislatures. That is clear.

Mr. LAUSCHE. Taking Ohio, for example, under the Constitution the Legislature of Ohio could define the qualifications of the electors for Representatives and Senators; and the test would be the qualifications attached to those who vote for the members of the branch of the legislature having the largest number.

Mr. HILL. That is correct. The qualifications of electors for Senators and Representatives would be the qualifications that the State of Ohio had set for the electors of the members of the most numerous branch of the Legislature of the State of Ohio.

Mr. LAUSCHE. I thank the Senator very much.

Mr. HILL. If the Senator wishes, I shall read article I, section 2 of the Constitution. It is clear and specific. Article I, section 2, of the Constitution, reads:

The House of Representatives—

That is, the House of Representatives of the Congress of the United States; this is the article of the Constitution which provides for setting up the House of Representatives—

The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Mr. LAUSCHE. That section deals with the election of Members of the House of Representatives.

Mr. HILL. That is correct. If the Senator will turn to the 17th amendment, he will find that that same language was incorporated in and made a part of the 17th amendment, dealing with Members of the Senate.

Mr. LAUSCHE. That amendment reads:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Mr. HILL. The Senator is correct. The first paragraph reads—I am reading the exact language of the 17th amendment—

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have one vote.

Then comes the language the Senator has just read, namely:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Mr. SMATHERS. Mr. President, will the Senator yield for an observation?

Mr. HILL. I yield.

Mr. SMATHERS. There is also a provision, is there not, in article II, section 1, paragraph 2, which makes the same reference with respect to electors? It provides:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: But no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The same article provides:

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

It makes no reference, and therefore leaves——

Mr. HILL. It leaves those who shall vote for electors as is provided in section 2, article I; namely, that they shall have the qualifications of the electors requisite for the most numerous branch of the State legislature.

Mr. SMATHERS. So the qualifications are specifically mentioned; and, by not mentioning anything else, it is an old legal maxim that by naming some, it is intended to exclude those not named.

Mr. LAUSCHE. Mr. President, if the Senator will yield, the Senator well knows that the Latin base for that doctrine is "inclusio unius est exclusio alterius."

Mr. SMATHERS. I knew the Senator from Ohio would be able to give us the doctrine in its original form. I congratulate him for it.

Mr. HILL. I join the——

Mr. LAUSCHE. That means that the specification or inclusion of the one specifically excludes all others.

Mr. HILL. I join the distinguished Senator from Florida in his congratulations to the Senator from Ohio.

Mr. LAUSCHE. I merely wished to demonstrate that I have not forgotten my law.

Mr. HILL. Mr. President, there is little difference, if any, in the principle underlying both titles III and IV. Title III

has traditionally been identified with the denial of the right to trial by jury. In the bill as originally introduced, title III kept this identity.

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

Mr. HILL. I yield.

Mr. LAUSCHE. Is it correct to say, then, that in determining this issue one should look first to article I, section 2 of the Constitution, which prescribes and defines what the qualifications of electors shall be for Members of the House of Representatives?

Mr. HILL. The Senator is correct.

Mr. LAUSCHE. And then should look to amendment 17, which prescribes the qualifications for electors choosing Senators?

Mr. HILL. The Senator is correct.

Mr. LAUSCHE. And then should look to amendment 15, which prohibits the denial or abridgment to any citizen of the United States of the right to vote on the basis of race, color, or previous condition of servitude?

Mr. HILL. The Senator is correct. I have cited some six statutes for the enforcement of voting rights, subject, of course, to the provisions of the Constitution of the United States.

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

Mr. HILL. I yield.

Mr. LAUSCHE. Did the Senator from Florida include another part of the Constitution as being applicable, or was that applicable to electors choosing the President?

Mr. SMATHERS. This is applicable to article II, electors choosing the President.

Mr. LAUSCHE. Yes.

Mr. SMATHERS. But by inference, the use of the Latin principle which the able Senator from Ohio just enunciated, the fact that the drafters of the Constitution did not therein attempt to set qualifications of the electors, except by reference to what the State qualifications were, one can conclude, I believe quite logically, that the intention was always to leave to the States the establishment of the qualification of voters.

Mr. HILL. Mr. President, in the bill as passed by the House, title III took on a more limited meaning than it has had in recent civil rights legislation, but it does not lose its identity regarding the denial of the right to trial by jury—and the denial of other civil rights. For example, it denies to the public officials or employees accused of discriminating, the basic, legal right to confront their accusers.

Title III gives to the Attorney General a blanket authority "to institute for and in the name of the United States" actions for the desegregation of "any public facility which is owned, operated, or managed by or on behalf of any State or subdivision thereof other than a public school or public college as defined in section 401 of title IV hereof." The only requirement to the Attorney General's bringing suits under title III is that he certify he has received a complaint and is satisfied that if the complaining party filed the suit himself, he would be unable to bear the expense of the litigation or that the filing of the suit might jeopardize his employment or otherwise economically affect or embarrass him and his family.

Under title III of H.R. 7152, there is no requirement that the action must be filed by the individual complaining of some wrongful act, or that any proof must be presented in connection with the certification made to the court. In other words, the Attorney General may initiate the suit, or under another section of title III he may intervene in the name of the United States.

The findings of the Attorney General in determining whether to supply free legal services and whether to withhold the complainant's name are final, as provided by the bill. Therefore, an accused under title III may never know who his accuser was, or if one ever existed, and under the circumstances may be denied the right to be confronted by his accuser.

Playground supervisors, swimming pool managers, public building personnel, librarians, and others accused of discrimination under title III could find the United States its legal adversary, with a Federal judge of the accuser's choosing sitting in judgment without a jury. The harassment, politically and otherwise, that could be given governors, mayors and other public officials would be unlimited.

In 1957 and in 1960, I took the floor of the Senate to oppose proposals that would deny the right to trial by jury. Both times we saw the proposals rejected by the Senate. I am grateful to be in a position to again be opposed to the denial of this right.

Title IV does not stop at denying the right to trial by jury. It goes considerably further. It adopts and embraces the proposition of government by men rather than government by laws and proceeds to expand this proposition beyond any limits previously attempted. It adds to the power of the judiciary, to enjoin without trial in desegregation proceedings, the power of the Attorney General to initiate such suits in the name of the United States with or without the name of the complaining party. It brings into play the same enforcement provisions as in the misnamed public accommodations title. It projects the arm of the Federal Government, through the President, the Attorney General, and the Commissioner of Education, into the local schoolroom and educational processes. Under title IV of H.R. 7152 those who have ever believed in local control of education would be forced to forever consider it a dream. It destroys local control of education.

Section 407(a) of title IV provides that:

> Whenever the Attorney General receives a complaint * * * and the Attorney General certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the public policy of the United States favoring the orderly achievement of desegregation in public education, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section.

Daniel Webster once asserted that—

> Whatever government is not a government of law is a despotism, let it be called what it may.

Our forefathers based the governmental and legal systems of America on the fundamental concept that our Government should be a government by law and not a government by men—a government in which laws should have authority over men, not men over laws.

Section 407 runs contrary to this principle of government and legal system. It establishes a new procedure for the enforcement of so-called rights, and it confers upon one fallible human being, the Attorney General, whoever he may be at any given time, the absolute and uncontrolled power to decide "in his judgment"—by the express language of the bill—if and when lawsuits should be initiated, in whose name they should or should not be brought, whether the United States should file it in its name with or without the name of the complaining party, when lawsuits by the United States would further desegregation—as defined by the Attorney General—and when the United States should intervene in existing lawsuits.

Heretofore, we have denied this extraordinary grant of power to the Attorney General—and for good, sound and solid reason. The Attorney General may now appear as amicus curiae in school desegregation actions—and has done so on many occasions—but there is no authority for him to institute these actions or to intervene in them in the name of the United States. Under present law, the United States does not become a party to the action. At first glance, this may not appear important, especially to the layman. But I can tell Senators that it is important. In fact, it makes the difference as to whether or not the accused is entitled to his right of trial by jury when charged with criminal disobedience of an injunction brought by the Attorney General.

The sixth amendment to the Constitution of the United States provides in part as follows:

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

Congress has implemented this provision of the Constitution by the wording of certain statutes now on the books.

Section 242 of title 18, United States Code provides in part as follows:

> Whoever, under color of any * * * custom, willfully subjects any inhabitant * * * to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States * * * by reason of his color, or race * * * shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

It follows that any person accused of violating the terms of an injunction involving the desegregation of the schools could also be accused of the substantive crime denounced by this statute. But

what are his rights if he is charged with criminal contempt? Rule 42(b) of the Federal Rules of Criminal Procedure, dealing with criminal contempt, provides in part:

The defendant is entitled to a trial by jury in any case in which an act of Congress so provides.

Title 18, section 401, United States Code, provides in pertinent part as follows:

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

(3) Disobedience or resistance to its lawful writs, process, order, rule, decree, or command.

Title 18, section 402, United States Code, provides that:

Any person, * * * willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States * * * shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.

Such fine shall be paid to the United States * * * but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of 6 months.

It is said that the sting of the bee is in the tail. Here is the sting:

This section shall not be construed to relate to contempts * * * committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

In other words, when the United States brings the suit, the right to trial by jury is denied to the accused party.

Thus we see that the limitations on fines and imprisonment imposed in suits between private litigants do not obtain in suits where the Federal Government is a party. And the United States is a party whether it institutes the action or intervenes in it.

Title, 18, section 3691, of the United States Code provides in part:

Whenever a contempt charged shall consist in willful disobedience of any lawful writs, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any act of Congress, or under the laws of any State in which it was done or omitted, the accused, upon demand therefor, shall be entitled to a trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

But, it continues in paragraph 2:

This section shall not apply to contempts committed * * * in any suit or action brought or prosecuted in the name of, or on behalf of, the United States.

Enactment of title IV would clearly give the Attorney General power to bring suits in the name of the U.S. Government and to determine when he would or would not. We are thus giving the Attorney General the power to decide when the defendant shall or shall not have the benefit of trial by jury.

This is not government by law. It is government by the whim of a politically appointed Attorney General, for better or worse.

When the Congress shall assign to the courts the power to issue injunctions never contemplated by the rules of equity in direct violation of constitutional and statutory laws and shall give the right, among other things, to issue injunctions for the purpose of enforcing criminal law, Congress shall have departed from our constitutional concept of courts of equity and equitable remedies in a manner for which there can be no justification. The court will then become the sole judge of the law and of the facts, in derogation of our most cherished liberty which is enshrined forever in our history and consecrated as sacred in our American judicial system—the right to trial by jury.

The philosophy underlying title IV is contrary to the fundamental laws of the land and to our Anglo-Saxon concept of human liberty. We have seen demonstrated the devotion to this concept by the struggles and bloodshed of our people for more than a thousand years to destroy the arbitrary power of kings and judges.

The Peace of Wedmore, concluded between Alfred the Great and Guthram the Dane in 878 A.D. insured that:

If a king's thane be charged with the killing of a man, if he dares to clear himself, let it be before 12 king's thanes.

Let it be before 12 of his peers; 12 jurors, as we know them.

That great document of human liberty, the Magna Carta of Great Britain, the bedrock of our freedom, states:

No freeman shall be taken or imprisoned, disseized or outlawed or banished, or in any way destroyed, nor will we pass upon him, nor will we send upon him, save by the lawful judgment of his peers or by the law of the land.

The Bill of Rights enunciated by Parliament for the protection of the common people and signed by William and Mary upon their ascension to the British throne made illegal the pretended power of the suspending of laws or the execution of laws by regal authority without the consent of the people through their Parliament.

The Declaration of Independence proclaims as one of the reasons for the separation of the Colonies from the mother country the deprivation in many cases of the right to trial by jury.

Title IV defines "desegregation" to mean "the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin." This definition of "desegregation" goes far beyond any concept we have previously had attached to the term either legislatively or judicially. It goes far beyond any conception of the word by the courts in connection with so-called school discrimination cases. By use of the word "assignment" we find the term under title IV of the bill more closely meaning "integration" rather than "desegregation." I contend that the proponents of this bill are endeavoring to accomplish by legislative fiat that which the Federal courts, including the Supreme Court of the United States, have ruled that they themselves cannot constitutionally do.

The assignment of students * * * by a Federal judge—the assignment of students * * * by an Attorney General of the U.S. Government—

Let us see what the Federal judges and Federal courts themselves think of the principle underlying the authority attempted to be given them. The U.S. Court of Appeals for the Fifth Circuit in the case of *Avery* v. *Wichita Falls Independent School District* ((1957) 241 F. (2d) 230) stated:

The Constitution as construed in the School Segregation cases * * * forbids any State action requiring segregation of children in public schools solely on account of race; it does not, however, require actual integration of the races. As was well said in *Briggs* v. *Elliott*, D.C.E.D.S.C., 132 F. Supp. 776, 777:

"It is important that we point out exactly what the Supreme Court has decided and what it has not decided in this case. It has not decided that the Federal courts are to take over and regulate the public schools of the States. It has not decided that the State must mix persons of different races in the schools or must require them to attend schools or must deprive them of the right of choosing the schools they attend. What it has decided and all that it has decided, is that a State may not deny to any person on account of race the right to attend any school that it maintains. * * * Nothing in the Constitution or in the decision of the Supreme Court takes away from the people freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination. It does not forbid such segregation as occurs as the result of voluntary action. It merely forbids the use of governmental power to enforce segregation. The 14th amendment is a limitation upon the exercise of power by the State or State agencies, not a limitation upon the individuals."

Section 404 of title IV authorizes the U.S. Commissioner of Education to make grants to train personnel to desegregate our schools and to deal with special problems occasioned by desegregation. This means that the U.S. Commissioner of Education can use tax monies to endeavor to brainwash the American people into accepting the philosophy and desirability of the public education policies advanced by the administration and the authors of the bill, and embodied in it.

The vesting of vast discrimination powers in the hands of man—public officials—not even elected by or accountable to the people—Daniel Webster has said this is the surest way to despotism.

If this bill passes, freedom of choice and freedom of association become a thing of the past. More than our legal and educational systems would be crippled. We would be well along the way to the erosion of the other freedoms we now know and enjoy and of the very foundations on which the American system is built.

Just as title IV would project the arm of the Federal Government into the operation and control of our schools and the lives of our schoolchildren, so would title V extend a meddling hand of the

Federal Government into the social and economic activities of our States, our towns, our communities and of our people.

There are perhaps no relations as varied as the situations that exist in different localities because of people's different races, colors, religions, or national origins. The situation in certain sections of San Francisco with the sizable Oriental population would not be the same as the situation in certain sections of El Paso with its large influx of Mexicans, or as in sections of Oklahoma with its predominant Indian population.

Title V suggests that the Civil Rights Commission could go into localities when disputes arise and, although lacking the knowledge of a local situation, solve its problems. I believe in the Jeffersonian theory of democracy that government governs most effectively when it is closest to the people to be governed.

I am against continuing this bureaucratic agency to waste the taxpayer's money. Experience has shown that more often than not outside intervention has caused more strife than it has settled. For these same reasons, 7 years ago I opposed the formation of the Civil Rights Commission. The record of the Commission since that time has undeniably proved that the concern of those of us who opposed it was well founded. I contended then, as I have each time we have been asked to extend the life of the Commission, that such an agency is unwarranted and unnecessary and that it would lend itself to unmitigated harassment of local officials and to meddling into local affairs.

In title V, we are again asked to prolong the time during which the American people will have to be subjected to the schemes of this useless and unconstitutional body.

The activities of the Civil Rights Commission have duplicated unnecessarily—and at great expense and waste to the taxpayer—those being performed by other branches of the Government. When the bill creating the Civil Rights Commission was before this body in 1957, we were told that:

> The Commission shall investigate allegations * * * that certain citizens of the United States are being deprived of their right to vote * * * study and collect information concerning legal developments constituting a denial of equal protection of the laws * * * and, appraise the laws and policies of the Federal Government with respect to equal protection of the laws.

And yet we find that these functions, rightfully or not, are also being performed by the Department of Justice. The Department, in justifying its appropriations for 1959 and 1962, made the following statements to the House Appropriations Committee:

> The Department will take on a program of liaison and consultation with law-enforcement agencies and other officials of the States in order to promote understanding of the problems and to place the State and Federal responsibilities in their proper perspective.
>
> We have in mind the great importance of the collection of far greater information—both factually, and legally, in the whole civil rights area.
>
> In the field of civil rights the Department's basic policy is to seek effective guarantees and action from local officials and civil leaders, voluntarily and without court action where investigation has disclosed evidence of civil rights violations.

Mr. President, in view of that statement by the Department of Justice, and in view of the position taken by the Department of Justice, and in view of the actions and activities of the Department of Justice, there is no need for this costly and unnecessary duplication—the Civil Rights Commission.

There is no need for this costly and unnecessary duplication. We hear much about reducing Government spending, and there is no better place to begin than here and now with this Commission. Even more disturbing than the fact that the Commission is mere duplicity and waste of taxpayers' money are the methods by which it has operated. As I have stated, I strongly opposed the initial creation of this agency and I have unswervingly opposed its continuation. My position is unchanged.

Mr. President, because of the lateness of the hour and because of the thorough treatment which is necessary to any discussion of titles VI and VII, which I fully intend to give them, I shall address myself to those titles and discuss them in detail—at a subsequent time.

Mr. President, let me say that for 145 years—since the compromise of 1820 and before—this Chamber has reverberated with arguments on this issue. Since it first broke into the open, it has never been far beneath the surface, and with the years, it has become identified as a southern problem.

Out of our travail has grown a certain wisdom. We have learned that race relations can be improved only through mutual respect, through education—through understanding, if you will. And we have learned that the surest way to defeat the end we all seek is through force, by shackling one man to another. Only through understanding, built solidly and slowly, will that end be truly achieved. There is no other way. You can force privileges and call them rights, but you cannot force understanding and a mutual respect vital to genuine racial harmony.

Our beliefs, our convictions regarding this bill and its approach, were born of experience, in the crucible of time. Ours is not the approach of unconsidered emotion or expediency—but I fear that emotion and expediency are the driving forces behind proponents of this proposed legislation.

The result has been tragic, not for the South alone, but for the Nation, for emotion and expediency are the tinder from which mob passions explode into flames of racial violence.

The racial problem is no longer only a southern problem. It is violently alive in New York, New Jersey, Maryland, Ohio, Illinois, California, and many other places far north and west of the Mason-Dixon line.

Let those who would disdainfully brush aside southern experience in dealing with the sensitive problems of racial relations now consider the bitter fruits of their own approach.

Emotion and expediency have led to violence in our streets—violence and mob passion which threaten the very institutions we in the Senate are sworn to preserve and uphold.

If, then, there was ever a time in the history of our Nation to look to experience—and calm reasoning—to reject the dangerous path of emotion, of expediency, of violence—that time is now. North — South—East—West—northerner, southerner, easterner, westerner, let us join together and let us turn away from the dangers inherent in H.R. 7152.

During the delivery of Mr. HILL's speech,

Mr. COTTON. Mr. President, it has fallen to me to take my turn today, with the assistance of the distinguished Senator from Delaware [Mr. BOGGS], to see that the chair usually occupied by the minority leader is garrisoned, or occupied.

Consequently, this is the first day of the 13 long days that have been used up so far in the debate concerning the taking up of the civil rights bill that I have been rather constantly present. I am glad that occurred, because I have been impressed by one thing, and I believe it should appear somewhere in the RECORD of the Senate, because it may be of some help as this debate progresses.

I suppose many other Senators, besides myself, are receiving a rather constant barrage of letters from people in their home States who are incensed that the Senate does not proceed more rapidly with its business, and demanding to know how soon there will be cloture, and whether we will vote to invoke cloture.

To such letters I have been replying that while I have some reservations regarding the bill before the Senate, certainly in its present form, it is my belief that the Senate should act upon these matters, and that after enough time has elapsed so that all points of view regarding the civil rights bill may be thoroughly aired, and may be reported to the country, and when I feel that debate is no longer necessary and no longer serves any useful purpose, I am prepared t vote to invoke cloture, which probably may well be the crucial vote on civil rights.

Now I am beginning to receive letters saying, "How soon are you going to vote? What do you think is a reasonable time?"

I continued my timekeeping this afternoon, and I discovered that the distinguished Senator from Alabama [Mr. HILL] started to speak at approximately 1:30. It is now a quarter of 4. In other words, about 2 hours have elapsed. One-half of that time, 1 hour, has been occupied by other Senators on various subjects.

With one exception, none of those Senators could be considered a southern Senator or a member of the group that is supposed to be using delaying tactics in the matter of taking up the civil rights bill.

Every speech I heard today has been extremely interesting and to the point,

and concerned subjects of grave import to this country. Certainly I would not suggest that any Senator refrain from saying things on the floor that he feels need to be said. However, it would seem to me, if in some not far distant day we are to be called upon—and the country will be watching us—to say whether the Senate is capable of suppressing unnecessary and prolonged debate and keep to a matter of intense public interest and grave concern, that Senators might well search their souls before they contribute to the time that is taken up. In all fairness to Senators who are now discussing the civil rights bill, in prolonged discussion—namely, some of my distinguished friends from the South—it might be well if each day the RECORD should show—if someone would keep track of the time—just which Senators are contributing, however innocently or inadvertently, to the so-called filibuster.

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

Mr. COTTON. I do not have the floor.

Mr. HILL. Mr. President, if it may be understood that I retain my rights to the floor and that my succeeding remarks will not be counted as a second speech, I am glad to yield to the Senator from New York.

Mr. COTTON. Under those circumstances, I yield. I should like to say to the Senator from New York that the mere fact that what I have said happens to follow the remarks of the Senator from New York is not intended as any reflection on the Senator. He was one of many Senators who spoke.

Mr. JAVITS. I am not very sensitive about that. I have a much more serious purpose in mind in rising to ask a question of the Senator from New Hampshire. I believe there are two fallacies in the Senator's remarks with respect to Senators who are yielded to in order that they may speak on other subjects. I should like to have the Senator from New Hampshire address himself to them, because I think it is only fair that he should.

First, does the Senator believe that the total business of the U.S. Senate should grind to a halt because certain Senators feel that they must talk interminably so that they may kill a critical piece of legislation? Second, does the Senator feel that the arguments which are being made by Senators who are addressing themselves to the civil rights bill at such great length are or are not so repetitious and a going over of the same ground so many times, with every speaker using exactly the same grounds, that they are not at all enlightening to the Senate? The Senator, as a most intelligent and able Senator, has heard them time and time again. Therefore, to say that we must let the talk go on, and let the business of the U.S. Senate come to a standstill, no matter how critical it may be to say other things, I believe is asking for a little more than what should be done.

In short, if it is necessary—and this is a question for the leadership to decide—to allow Senators to develop their theses with such fullness, the Senate sessions can be extended. A number of us feel that the only time the country will feel that we are really getting down to business is when the Senate has round-the-clock sessions. It is only after a period of such sessions that there will be a vote on cloture.

Finally, what the Senator has said about his own feelings is most refreshing and most heartening to every civil rights advocate. Therefore, in addressing these questions to the Senator, I am not trying to be contentious; on the contrary, I am delighted that the Senator feels as he does, because he is a tremendously important ally, and I would like to have his judgment based upon the other point of view, which I have presented.

Mr. SMATHERS. Mr. President, will the Senator from Alabama yield to me, so that I may participate in the discussion, without the Senator from Alabama losing his right to the floor?

Mr. HILL. I shall be glad to yield if I may do so, if I may later continue my speech which I started earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. I shall be glad to yield. However, at some time I must, in self defense, reply to the questions of the Senator from New York.

Mr. SMATHERS. Mr. President, I wish to join in the defense—not that he needs any from me—of the able Senator from New Hampshire. What he has said is contrary to what the Senator from New York has been saying on this question over and over again. Every time that we have spoken on this important legislation, facets of it have been developed which theretofore had not been developed. The Senator from New York and others invariably rise to repeat their half of these arguments over and over again. Therefore, it seems to me that if the Senator's argument is that there is no point in saying the same thing over and over again, the other side should not be doing the same thing.

I have not had an opportunity to discuss this particular measure. It has been discussed for 10 or 11 days. During that time my distinguished friend from New York has probably made four or five speeches on this particular measure. I have yet to make one.

Therefore when it comes to the question of repetition on this subject, I would have to say that in this instance, while the Senator's contributions have been repetitive, I have not yet had my first opportunity.

Mr. COTTON. Mr. President, in response to the first question propounded to me by the Senator from New York, whether I feel the entire business of the country should come to a standstill while the debate on the civil rights bill continues, it is regrettable that the business of the Senate does come to a standstill.

However, I was talking about business of the Senate. The business of the Senate is legislating. That is more important than talking.

I made it crystal clear that I would not presume, as a Member of the Senate with not many years of seniority, to suggest that it is not necessary for Senators to say certain things on the floor of the Senate regarding a multitude of subjects. That, incidentally, is what the morning hour is for, and perhaps should be kept down during this debate. But as to the business of the Senate coming to a standstill, the business has come to a standstill. What I have been timing today has not been business. There has not been a confirmation of a nomination. There has not been the introduction of one bill. Not one other action has been taken by the Senate. There will not be, of course, while this debate continues. That is one reason why it must not be allowed to continue forever. I was merely talking about the use of the time and the prolonging of the time.

The fact that Senators speaking on one side of the subject may be lengthening their speeches and may be repetitious, and may even—without impugning their motives—be intentionally repetitious, is a perfectly practical fact that I would not argue with the distinguished Senator from New York. We recognize the facts of life.

Obviously, many of the speeches have been extremely repetitious. I am not suggesting that Senators choke themselves off and sit completely quiet without saying things that ought to be said. I am merely suggesting that the time will come before long when the Senate will have to meet the issue of invoking cloture. One reason I believe cloture should be invoked at the proper time is that each time a new session of Congress starts, the problem of revising the rules, rule XXII specifically, to make cloture more easily invoked arises.

I have voted against liberalizing rule XXII, and I expect to continue to vote that way unless it becomes evident that cloture can never be invoked. So I say to Senators who do not wish cloture to be invoked that the way to have the rule liberalized is to let the debate go on forever and demonstrate to the country that the rule is ineffective because it is not possible to obtain enough votes to invoke cloture.

The Senator from New York knows perfectly well that no business can be transacted. It is a mere matter of judgment and of striking a happy medium. I agree with the senior Senator from New York that there are repetitions on the other side of the aisle. I heard a Senator make a statement to the distinguished majority leader on the floor of the Senate the other day in a private conversation, but there is no harm in repeating it. He said to the majority leader:

> You will never get a vote unless you hold their feet to the fire and hold round-the-clock sessions, or at least sessions that extend for 12 or 14 hours.

I presume that is evidenced by the fact that we shall be in session today from 10 a.m. to 10 p.m.

If it is a matter of compelling the Senators who are prolonging the debate, who are limited in number, and who have only the opportunity of making two speeches apiece on the question, to finally exhaust themselves so that the Senate

can come to a vote. That is another problem.

I was impressed by what the stopwatch revealed today. Almost equal time—within 20 minutes of equal time—has been consumed thus far during this day. In the parlance of a Senator, "We are holding their feet to the fire."

Equal time has been used by Senators on a multitude of subjects. I was not criticizing them. I did not intend to participate in the debate or to prolong the matter further. However, it seems to me that the RECORD ought to show that some of the folks who are writing letters and who want cloture tomorrow or next Monday had better bear in mind that apparently Senators have been speaking on a variety of subjects. In all fairness, I should say that if I decide to vote for cloture, my decision be based on the amount of time that has been exhausted by the minority of the Senate, who are obviously, in a sense—I will not use the mean word about it—taking up time in order to stave off a vote on the bill.

Mr. JAVITS. Mr. President, will the Senator yield to me for a brief moment to permit me to finish my talk?

Mr. COTTON. If the Senator wishes, I will yield.

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

Mr. HILL. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire may yield to both Senators from New York.

Mr. COTTON. I yield to the whole State of New York.

Mr. HILL. With the understanding that I do not lose my right to the floor, and that I may continue the speech which I began earlier today.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. JAVITS. Mr. President, it is always most difficult to be cast in this role, because, fundamentally, I agree with the Senator from New Hampshire and do not wish to be in the position of appearing to dispute him or dissent essentially from his view. I wish to state only this: First, my reason for saying what I did about supererogation is that we are not debating the bill we are only considering a motion to take up the bill. Every single point that has been argued for a long period of days can be, and I have little doubt will be, argued when the bill is taken up. Anything that I might have interjected, or that others might have interjected, in connection with the civil rights bill, was only in answer to points which are being made many times in very long speeches as against relatively short interjections on the part of the proponents of the bill. This has been done pursuant to a determination, as I think the Senator will agree with me, that we will answer these questions as they are raised, so that the public may have the benefit of both points of view at once.

The other point I wish to make is that I agree with the Senator that we should exercise the greatest discipline as the civil rights proponents with respect to any time we may take. The one thing as to which I do not find myself in complete agreement with the Senator is his statement that the only action the Senate takes is to pass bills or to approve appointments, or actions of that kind. I believe this great forum is a forum in which, occasionally, there must be a cry of warning, a cry for justice, a word of caution to the administration which may be imminently doing something which should not be done. That is the great purpose of this forum.

I agree with the Senator that, with the greatest temperance and self-discipline, we should most carefully screen ourselves at a time like this. But I cannot agree that we should remain mute if, for example, we see Chile going down the drain, or if the Senator from Oregon—although I do not agree with him—thinks he sees a colossal error occurring every day in Vietnam. Within those bounds, I agree with the Senator from New Hampshire.

I assure him that I will try to submit anything I shall have to say to the test of discipline. I take his remarks in the spirit of friendship and helpfulness, as I am sure that was the way in which they were uttered.

Mr. KEATING. Mr. President, primarily I wish to commend the Senator from New Hampshire for the very fine statement he has made, and the excellent analysis he has given us of the working of his own mind. The Senator from New Hampshire might very well not be so quick in voting for cloture as perhaps the junior Senator from New York would be. He and the junior Senator from New York are in disagreement about the amendment of the rule relating to cloture. I have always felt that the rule was too restrictive and should be changed. I believe that the Senator from New Hampshire expresses the views of a good many Senators.

I was asked within the hour by an excellent journalist what I thought about the possibility of invoking cloture. I replied that I had the feeling that there were Members of this body who might not favor every part of the bill, but who would be ready after extended debate, and after they felt that the subject had been exhausted, to vote for cloture. I take it that that is in general the position of the distinguished Senator from New Hampshire. I commend him for it.

If the tables were reversed, I hope my own inclination would be to be as statesmanlike as that—in other words, to reach the conclusion, regardless of whether I favored the bill or was opposed to it, that the time had come when debate on the subject was exhausted, and that it was time to conclude it after 100 additional hours of debate.

The decision as to when an attempt to invoke cloture should be made is always a matter of judgment. My personal belief in regard to the question before us, which is on agreeing to the motion to have the Senate proceed to consider the bill—and certainly if cloture is necessary on this motion, cloture should be ordered somewhat earlier than it should be on the question of the passage of the bill itself—is that certainly, in view of the length of the debate already had, the debate should not go beyond this week; and perhaps within this week serious consideration should be given to this point by the majority leader, who, I would hope, would be the moving force in connection with any cloture motion.

I have seen in the press statements to the effect that it never will be necessary to make a cloture motion, because the opposition will simply be worn out, and finally will agree that the vote be taken. Personally, I regard that as an unrealistic attitude. I believe that in all likelihood a time will come, in dealing with the bill itself, when it will be necessary to make a cloture motion.

I think the Senator from New Hampshire—who represents, I imagine, the thinking of a substantial number of Senators on both sides of the aisle—has rendered a real service by making clear that there is a limit to his patience, and that he is unwilling to listen forever to repetitious arguments, without feeling that the Senate must bring the matter to a conclusion.

I agree with him that all of us should exercise great restraint in regard to speaking on other subjects during this debate, if we feel that cloture should be invoked. I believe that his admonition in that regard is well taken, and that it should be followed by all of us, even though there may be other matters which we would wish to place before the Senate. Unless they are really urgent, I believe the debate on the civil rights bill should be limited to that subject.

Mr. COTTON. Mr. President, I thank both the Senators from New York for their contributions.

All I desire to do—particularly because these various remarks will be printed in the RECORD following the remarks of the Senator from Alabama—is to state that I believe there should be an indication in regard to the amount of time consumed.

I repeat that I do not criticize any Senator for having taken up, here on the floor, other subjects, for I realize that such procedure is in accordance with the tradition of the Senate as a forum which is open for general debate.

Mr. President, I yield the floor; and I thank the Senator from Alabama for his courtesy in yielding.

During the delivery of Mr. HILL's speech,

Mr. RIBICOFF. Mr. President, will the Senator from Alabama yield?

The PRESIDING OFFICER (Mr. MCGOVERN in the chair). Does the Senator from Alabama yield to the Senator from Connecticut?

Mr. HILL. I yield with the understanding that I shall not lose my right to the floor.

Mr. RIBICOFF. Last week, the distinguished senior Senator from Florida [Mr. HOLLAND] discussed this section of title IV. He indicated that he would have no objection to this section of the bill. Does the distinguished Senator from Alabama share the view of the Senator from Florida?

Mr. HILL. I am against the whole bill and all its separate provisions.

Mr. RIBICOFF. I was occupying the chair, so I could not enter into the colloquy. The Senator has complained of

the lack of a provision for a jury trial when the Attorney General intervenes under titles III and IV. Assuming that a provision for a jury trial were included in the bill, would that satisfy the distinguished Senator from Alabama?

Mr. HILL. The lack of the right of trial by jury is only one of the many objectionable, iniquitous features in the bill. There are many other such features.

Mr. RIBICOFF. Let us assume that a provision for jury trial were included in the bill. Would the Senator then favor this section?

Mr. HILL. I would not.

Mr. SMATHERS. Mr. President, will the Senator from Alabama yield, so that I may ask the Senator from Connecticut a question?

Mr. HILL. I yield to the Senator from Florida for that purpose.

Mr. SMATHERS. Would the Senator from Connecticut be willing to have included in this section of the bill a provision for the right of trial by jury?

Mr. RIBICOFF. If that were a condition for receiving the support of those who object and will filibuster the bill, I would be willing, personally—I cannot speak for the leadership—but as one individual Senator, if a provision for the right of trial by jury were a condition that would stop the filibuster and cause the passage of the bill, I would vote for that provision.

Mr. SMATHERS. I congratulate the able Senator from Connecticut. I know that he, as an able lawyer, recognizes from his training that the right of trial by jury is a fundamental right given to every citizen, and was intended to be given to every citizen, when he is charged with any kind of crime.

May I interrupt the remarks of the Senator from Connecticut to mean that in order to bring to an end what he euphemistically refers to as a filibuster, there are other amendments to which he would agree?

Mr. RIBICOFF. When the Senator says "euphemistically," is there any question in his mind that a filibuster is taking place and will continue to take place in the many weeks ahead?

Mr. SMATHERS. I will say to the able Senator from Connecticut that when the communications satellite bill was before the Senate in 1962, a group of so-called liberal Senators debated and discussed that bill for 6 weeks, and they emphatically denied at all times that anything more than an educational discussion was taking place.

Mr. RIBICOFF. As the Senator realizes, I cannot commit the majority leader or the majority whip. I do not know whether the Senator from Florida can commit the distinguished group of Senators from the southern section of our country who together are making their position clear. However, is the distinguished Senator from Florida suggesting that the junior Senator from Connecticut sit down with the junior Senator from Florida to try to work out a few amendments and cause unanimity in this body and the quick passage of the civil rights bill?

Mr. SMATHERS. I can speak only for myself. I am as helpless to control the vote of any other Senator as is the Senator from Connecticut. The only votes we can control are our own. The Senator can control his vote, and I can control mine. So far as the junior Senator from Florida is concerned, there are particular provisions in the bill which I as an individual Senator could be for. But I could not be for the bill as it is presented in a package. It might be possible to divide the bill or to amend the bill, so as to consider only the areas in which Congress actually has the authority properly to act. Having done that, it might be that we could agree upon a bill.

Frankly, I do not believe any type of discrimination can be eliminated. I agree that discrimination exists in this land. It exists not only among races; it exists among religions. I even know about discrimination among economic groups. I do not really believe discrimination will be ended by passing laws. I believe that discrimination as such is morally bad and that Congress should try to do everything possible to eliminate it. The best way to do it is through education.

So in answer to the query of the Senator from Connecticut, there are certain sections of this bill which I could favor. I would be less opposed to the bill if it actually provided for trial by jury in the many instances in which it now authorizes the Attorney General of the United States to bring an action on his own motion and to bring the weight and majesty of the Federal Government against a private individual, who in some instances scarcely would have the resources with which to defend himself. Yet he could be put in jail without a trial by jury. I think such a provision runs counter to every sound precept of Anglo-Saxon jurisprudence about which I have ever heard.

So I say that such an amendment would make the bill somewhat more palatable; but I also say the "package" contains some proposals which are so extreme that I could not possibly favor the entire "package."

Mr. RIBICOFF. Of course, to be less opposed is a great deal different from being in favor. To be less opposed does not indicate an affirmative vote. I think there should be an indication of what sort of provision dealing with public officials would be acceptable enough to result in an affirmative vote. Certainly it is assumed that all such officials, whether under the Federal Government, a State government, or a local government, would obey the laws of the land.

Mr. SMATHERS. I believe the Senator from Connecticut is not stating the matter entirely correctly. Under this bill, a private individual who might own a rooming house with six rooms, could, in point of fact, be held in contempt and could be fined and could be punished by a jail sentence, without a trial by jury. So private individuals, in addition to public officials, would be affected by the bill. Therefore, I say the bill goes further than anything the Federal Government has ever before requested, and further than anything the Congress ever before has done. There can be no question that the 1957 act and the 1960 act had their application primarily to public officials.

Title II of the present bill also deals with private individuals and with what could be done under the 1960 act, which was to bring them into court and place an injunction on them; and if a violation were found to have occurred, of course they could be fined and could be placed in jail for as long as 45 days, without a trial by jury.

Mr. RIBICOFF. But if for more than 45 days, there would be a trial by jury.

Mr. SMATHERS. Yes. But I would say that by the time a man had been in jail for 45 days and had been fined and had paid $300, by the second time around it would be found that he would simply throw up his hands and would say, "Whenever someone says, 'Wait a minute; you may be discriminating,' just take all of them in. I give up all my rights"—because 45 days in some jails—fortunately, thus far I have not had to spend even 1 day there; but I would say that 45 days in some jails, without the right of trial by jury, would be a very severe penalty. Yet that is one of the provisions of title II.

So the Senator from Connecticut should vote in favor of the motion of the Senator from Oregon that the bill be referred to the Judiciary Committee, where the bill could actually be studied in fact, because, as all of us know, the bill was put through the House with the strong arm of someone or something—I do not know exactly what happened; but there was very little debate, and no public discussion of it; and now the bill has been brought to the Senate.

Now the Senate is trying to conduct sensible debate and discussion of all the provisions in the bill.

I believe we could learn a great deal from committee consideration of the bill.

From the remarks of the Senator from Connecticut, I gather that he does feel sympathetic to the situation of a man who spends 45 days in jail and is fined $300, without a trial by jury. So the Senate should permit the bill to be referred to the Judiciary Committee, of which the Senator from New York, who is a very astute attorney, is a member.

So let us vote for the motion of the Senator from Oregon to refer the bill to the Judiciary Committee; and then let us follow the normal processes of the Senate, and thus be able to learn more about the bill.

If thereafter the bill should become law—although I hope it would not—it would not be quite as iniquitous as it now is.

Mr. RIBICOFF. Let me say that I believe the Senate is composed of 100 able men and women; and I anticipate that before this debate runs its complete course, there will be a complete discussion of every word, every line, every paragraph, and every section of the bill. I believe the 100 men and women who will be debating the bill will make a useful legislative history. They will be debating the bill with a sense of clarity and understanding. That will be true of both

those who will favor the bill and those who will oppose it.

I have listened with a great deal of interest to the views of the opposition. Every debate and every argument has been carefully thought out and studied. There has been careful preparation.

I anticipate that in the days ahead, I shall give special attention to certain sections of the bill. Title VI of the bill is one of the controversial titles; and I anticipate that when it is debated, I shall enter into the debate on various aspects of title VI; and I know other Senators will do likewise.

During this debate we shall be able to determine what is right and proper and what may be improper in the bill.

If there are defects—and I would not say every word or clause of the bill is perfect—they should be remedied; but I find it interesting to note, as I sit here day in and day out and listen to the opposition, that although the opponents of this measure talk about defects, yet when we try to pin down any opponent of the bill by asking, "If we remedy this particular defect, will you vote for this section and also for the bill? the answer is "No."

Under ordinary circumstances, when there is a difference of opinion among Senators during debate on the floor of the Senate, at some point there is a meeting of the minds and an attempt is made to reconcile the differences which exist between the two groups. But in this case the opposition is so solid that I submit there is no possibility of getting the opposition to accept the bill, even after making any of the proposed changes. I make this point to the Senator from Florida.

Mr. SMATHERS. Again I speak only for myself; but I say that I can conceive that I would support some of the parts of the bill—although certainly not title VI, the genocide title; and I doubt that I could ever support title VII. On the other hand, I could support some of the sections of the bill if I thought they would be improved.

This is why I strongly support the motion of the Senator from Oregon to have the bill referred to the Judiciary Committee; and at the committee hearings, the committee would hear not only from members of the committee, but also from outsiders, including, I would hope, able constitutional lawyers, and would obtain the benefit of their judgment, and also would obtain the benefit of the judgment of some outstanding persons in the educational field and of some outstanding persons in the labor movement, and of some outstanding religious leaders as to what is really needed.

The Senator from Connecticut says committee reference of the bill is not needed because all Senators are able. However, if that were a sound argument, we should do away with all the Senate committees, because all 100 Senators finally will have to pass judgment on all bills on which the Senate acts. So if the argument of the Senator from Connecticut on that point were good, we might just as well do away with the Senate committee system.

I do not believe the Senator from Connecticut intends to have that done. I know that ordinarily he is a respecter of the congressional committee system. I also state that he is one of the most fair-minded men I have ever been privileged to know.

I feel that if we could eliminate some of the emotion in connection with this matter, and could get down to what really is needed, if anything is needed, and could try to buttress it with better education, better jobs, and better knowledge, and could do something about them, then I believe we could arrive, finally, at some action on this problem—if not a final solution of the problem, because I do not believe there could be a final solution of it; since the first day of recorded history there has been discrimination; and, unfortunately, there will be discrimination, I am afraid, to the last day. It is something that we should try to get rid of. Since the human being is what he is, and since no one has yet arrived at that plateau of perfection and sanctity, I am afraid that we shall always be sort of passing judgment on each other, and certainly we shall be saying, "I like this group better. I would rather belong to that lodge. I would rather go here and work over there."

As long as we do that, we shall have some form of discrimination. People will feel that they are discriminated against.

Speaking of discrimination, we southerners know almost as much about discrimination as anyone, because if there is a minority outside of the South, we are it.

I do not speak critically, but while we get a pretty good press down in our home communities now and then, if Senators think that the Washington Post, the New York newspapers, and the newspapers in California do anything but point out in a ridiculous fashion the position of the southerners, I suggest that they take a look at what those newspapers have done to us. I suggest that they look at the caricatures and everything else. We know what it is to be a sort of minority. Today we are here as a minority. So we understand somewhat the problems of a minority. We wish to protect those minority rights wherever we can on the floor of the Senate.

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

Mr. HILL. I yield.

Mr. RIBICOFF. I agree with what the Senator from Florida has said philosophically in relation to the South as a minority. I agree with the Senator when he states that it is a tragedy because he and others are placed in the position of a minority.

One of the great tragedies of America is that the civil rights issue and the problems of discrimination have denied some of the ablest men in public life in the United States of America the full opportunity to assume roles of national leadership, and the entire Nation has been denied the full benefit of their talents. It is my prediction that when the civil rights bill becomes law, and the civil rights issue is eliminated from American politics, at that time the distinguished Senators, Representatives, and other public officials from the South will no longer be a part of a minority but will then have a national status and a full role to play in the national political affairs of this country.

I have said in the past, and repeat now, that this has been a tragedy for the United States of America.

But further in answer to what the distinguished Senator said, I wish to point out that the last time the bill was before the Committee on the Judiciary, and the Senator from New York [Mr. KEATING] was a member of that committee, 9 days were taken in the questioning of one man by one member of that committee.

The distinguished Senator from Oregon [Mr. MORSE] intends to make a motion to refer the bill to the committee. There is no more learned man in constitutional law and the legal processes than the distinguished Senator from Oregon. He is a brilliant Senator. He is a brilliant lawyer. He is a dedicated individual. Whether I agree with him or disagree with him, I always respect his position and I listen with great interest and delight to him. I always receive an education when the distinguished Senator from Oregon speaks.

Mr. MORSE. Mr. President, will the Senator yield for 30 seconds?

Mr. HILL. I yield.

Mr. MORSE. Will the Senator, as soon the debate is over, come out to Oregon and make that speech? I would like to have him do so.

Mr. SMATHERS. After that statement, I am certain the Senator will support the motion of the Senator from Oregon.

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

Mr. HILL. I yield.

Mr. RIBICOFF. No. I shall not support the Senator's motion. But I believe the Senator from Oregon will recall that when I was part of the executive branch, because of my respect for the distinguished Senator from Oregon, I came out to the State of Oregon. A press conference was held at which the distinguished Senator from Oregon was present. I believe by words and deeds what I am saying today was emphasized and reemphasized at that time for the benefit of the Senator from Oregon.

Mr. MORSE. Mr. President, will the Senator yield for 30 seconds?

Mr. HILL. I yield.

Mr. MORSE. It made me thousands of votes. I believe in reciprocity, and I am at the service of the Senator in Connecticut.

Mr. RIBICOFF. I thank the Senator.

But, seriously I make the point that when the distinguished Senator from Florida [Mr. SMATHERS] the distinguished Senator from Oregon [Mr. MORSE], and the distinguished Senator from Alabama [Mr. HILL] talk about sending the bill to the committee in order to have the benefit of the points of view of distinguished scholars, distinguished constitutional lawyers, and distinguished members of the clergy, I wish to point out that there is not a Senator

who does not have available to him that information. The Senator from Oregon, the Senator from Florida and the Senator from Connecticut can call upon the great professors of law at the great universities in their own States and throughout the Nation. There is available to each and every one of us the points of view, the fine points of argument, the differences of opinion in relation to every section of the bill. For the life of me I cannot understand what would be gained by the maneuver of sending the bill to one of the great committees of the Senate for 10 days, for the taking of testimony and with instructions to report the bill back exactly as it is.

I believe in the committee system. I believe in the legislative process. But I have the feeling that 100 Senators in their colloquies and in their debates during the days ahead can present to the Senate and to the people of the United States every conceivable point of view.

The Senator has raised the issue of Anglo-Saxon jurisprudence in connection with jury trial in contempt cases. I should like the Senator to point out where in the common law or under Anglo-Saxon jurisprudence there is a provision for a jury trial in a criminal contempt case.

Mr. SMATHERS. The Senator has asked me where there is a provision for a jury trial in a criminal contempt case. In fact, I think such a provision was included in the 1957 act. I do not happen to have with me one of my legal brains but——

Mr. KEATING. Mr. President, will the Senator yield at that point?

Mr. HILL. I am happy to yield.

Mr. KEATING. It so happens that at the time the act to which the Senator has referred was considered I was the ranking member of the House committee considering the bill. The members of the committee were rather astounded by the action taken in the Senate on the 1957 bill.

To answer the Senator from Connecticut, there is nothing in common law that calls for a jury trial in a contempt action. Since the law was enacted, the question has been clearly and squarely one for the court. But in the Senate at that time a complicated arrangement was agreed to which provided that if the penalty was great enough, there would be a jury trial. Some such formula was retained in the bill. But really, if we were to follow precedent in the English common law or the rules and laws of almost every State in the Union, there should not be any jury trial in that type of action. However, the present arrangement is certainly nothing with which I would quarrel at this late date.

I do desire to ask the Senator to yield further on the point which the Senator from Connecticut was making, but I do not wish to interrupt his train of thought.

Mr. RIBICOFF. The distinguished Senator from Alabama has the floor. I do not have the right to yield.

Mr. KEATING. Mr. President, I ask the Senator from Alabama to yield so that I might comment on what the Senator from Florida has said.

Mr. HILL. I shall yield very briefly for that purpose.

Mr. KEATING. My statement will be brief, I assure the Senator, because I am seeking guidance and help.

Since I am a member of the Committee on the Judiciary, I am interested in learning how the Senator from Florida would suggest that the jury trial provision could be changed, if anyone wished to change it, any other change could be made in the bill. How would the question get to a vote in the Committee on the Judiciary, since the chairman has ruled that the rules of the Senate apply to the rules of the committee and in which committee, as yet, it has never been possible, hard as many of us have tried, to bring any amendment to a vote.

If the Senator knows of some way which we who serve on the committee do not know in which to bring some of these amendments to a vote, I would certainly be happy to have the benefit of his views.

Mr. SMATHERS. I cannot help but believe that the Senator would find that, despite the position of the able Senator from Mississippi [Mr. EASTLAND], who is chairman of the Committee on the Judiciary, that that Senator and chairman would vote, for example, for the addition of a provision which would insure jury trial protection in a case of the character which we are discussing.

Mr. KEATING. If the Senator will yield, I entirely agree that the Senator from Mississippi would vote for it.

Mr. SMATHERS. I thought the Senator asked me, "How do we get to a vote?"

Mr. KEATING. How do we get the chairman of the committee to put it to a vote? When put to a vote, it would be defeated. The chairman knows that. Does the Senator have any idea how those of us who would like to have such an amendment defeated could have it brought to a vote? How would we get the chairman to put to a vote any amendment with which he was in disagreement?

Mr. SMATHERS. I believe, under the proposal offered by the able Senator from Oregon, the bill would be back in 10 days in any event. If there were any prospect of improving the bill, I should think the able chairman of the Judiciary Committee would certainly permit such a particular vote to come up, if, in his judgment, and that of some of his colleagues, it were an improvement to the bill.

If an amendment were offered, under the rules of the Senate—which are used as the rules of the Judiciary Committee also—if the chairman did not like the amendment, I assume he would conduct an extended discussion of it. In any event, the bill would come back in 10 days, and during the course of the discussion in the Judiciary Committee, and before the return of the bill, perhaps the committee would have access to the president of the American Bar Association. He could be called. I do not know who he is. The only time I remembered his name was when he referred the other day to the activities of Belli, who lives in California, and who represented Jack Ruby in the trial at Dallas. That was the first time I remembered his name, but I presume persons of that caliber and knowledge would come before the committee and testify before there was a vote. So there would be a record that Senators could examine, which is the usual procedure in the Senate. We could examine the testimony of at least some of those who are for and some who are against, and get the benefit of a cross-sectional viewpoint.

I am sure it would be very helpful to those of us who supported what part of the bill we could support and would give us an opportunity to try to amend certain provisions we thought should be amended.

I think the hearings would be beneficial even if there could not be a vote in committee.

I agree with the Senator from New York that, looking at the record of the committee, the chances of reaching a vote are somewhat remote.

Mr. KEATING. I appreciate the candor of my friend from Florida; but does he realize that we had, and still have, in midair, dangling in the ether, a very distinguished witness in the person of the Attorney General of the United States, who was the only witness heard on this bill? There were 8 or 9 days of hearings; and the Attorney General was cross-examined during all that time by a single Senator. I am not sure that Senator has finished his questioning of the Attorney General, but assuming he has, undoubtedly the distinguished Senator from South Carolina will take up the questioning. The Attorney General would be the first witness to be called, and there are 13 or 14 other members of the committee waiting to question him.

Mr. SMATHERS. I have the feeling that, if the Senator from Connecticut and the Senator from New York would agree to having this bill referred to the Judiciary Committee for 10 days, the committee might be willing not to listen to the distinguished Attorney General further on this particular matter. I know the Senator from New York admires him greatly and follows him in all these matters on legal precedents and recommendations——

Mr. KEATING. Do not go too far with this; only part way.

Mr. SMATHERS. Anyway, I have the feeling that, if the Senator from Connecticut and the Senator from New York would vote for such a proposal, there would be a disposition on the part of the committee to do so. I have relatively little influence, but I would try to get them to listen to witnesses other than the Attorney General.

Mr. KEATING. The next witness would probably be the Governor of Alabama. We are already familiar with his views.

Mr. SMATHERS. I would recommend that we hear from the bar association president and some of the distinguished jurists who are not necessarily in the political arena, religious leaders, economic leaders, and people of that character, in addition to those representing the bar.

Mr. KEATING. I would be delighted, but the Senator from Florida is not chairman of the committee.

Mr. SMATHERS. That is an unfortunate fact at the moment. At any rate, I have the feeling that if the Senator from New York and the Senator from Connecticut would support the motion, possibly we could persuade the Senator from Mississippi to follow the course suggested.

Mr. KEATING. The possibility is so remote that I could not possibly vote for it.

Mr. RIBICOFF. Mr. President, if the Senator will yield, in the previous colloquy, the Senator from Florida said he controls only his own vote.

Mr. SMATHERS. I still do.

Mr. RIBICOFF. Under the circumstances, I am at a loss to know how the distinguished Senator from Florida is going to deliver the chairman's vote.

Mr. SMATHERS. I did not say I was going to deliver the chairman's vote. I would be the last person to say I could deliver any Senator's vote but my own; but if I have any persuasive powers—and that is doubtful—I would certainly offer to exercise them on the chairman of the Judiciary Committee, so he would not have only the Attorney General as the prime witness, who the Senator from New York has stated is a distinguished and learned jurist, and whose recommendations we should follow, and which I am certain in every instance the Senator from New York would want to follow.

Mr. KEATING. If the Senator would have a colloquy with me, after consultation with the distinguished chairman of the committee, the Senator from Mississippi, and the Senator from Mississippi were to rise on the floor and assure us that if the bill were sent to the committee for 10 days the persons the Senator from Florida has listed would be heard and he would allow all amendments to be offered and voted on in committee, I might feel quite differently about this situation than I do now. I shall wait for word from the Senator from Mississippi with great anticipation, but not with great expectations.

During the delivery of Mr. HILL'S speech,

Mr. MORSE. Mr. President, I should like to make a brief comment on the interesting colloquy to which I have listened today. I make these comments only to clarify my position. At whatever time the parliamentary situation makes it possible for me to make the motion to recommit the civil rights bill to the Judiciary Committee for 10 days, I shall make it in this form:

I move that H.R. 7152 be referred to the Committee on the Judiciary, to be reported back to the Senate not later than April 6.

I may have to change that date of April 6, depending upon when I make my motion, or advance the date for whatever period of time will be necessary to give the committee 10 days.

I wish to make two points quickly about the motion. I am about to speak on the legal matters involved in the motion, so far as my objective is concerned, when I make the motion, and I shall not discuss those tonight. The speech is mimeographed and will be placed on the desk of each Senator when I make it. It will principally be a legal argument, and after I finish making the argument I shall then be delighted to answer questions on the speech.

I wish to make clear that my motion will not prevent any amendments in committee. It may well be that the committee, in its wisdom, after it hears witnesses, will decide that some amendments are necessary. I believe that they are. I believe, for example, that the FEPC section as it came over from the House is not nearly so good, either from its legal aspect or its economic aspect, as the provision we have been working on in the Senate. But that is a matter of opinion. I wish to make clear that in sending the bill to committee, the motion does not provide that it shall not be amended. It can be amended, if in the wisdom of the committee, after hearing witnesses, it believes that amendments should be offered.

Next, I wish to make clear that I believe it is up to the Judiciary Committee to demonstrate to the Senate and to the country what its procedural handling of the bill will be, if the bill goes to committee. I am not going to prejudge the committee. I am not going to say that the committee will not follow a procedure that will make it possible for the various cross sections of witnesses representing various points of view on the various sections of the bill to be heard. I should be keenly disappointed if the committee did not follow what I would call an appropriate and normal and regular procedural course of action for conducting hearings on the bill, because I believe the American people are entitled to such hearings.

Let me make perfectly clear to Senators who have expressed fear on the floor of the Senate that sending the bill back to committee would not produce the type of hearings most of us feel we should have, that if I knew in advance it would not, I would still urge that the bill be sent back to committee, for two reasons:

First, I believe this should be demonstrated because, I believe, it is an important operative fact, and I believe that that will have a terrific influence on American public opinion, if it should become a fact, because, as I have been heard to say before, the filibuster will be broken by American public opinion, not by the Senate. We are never going to break this filibuster. We are going to be the instrumentalities for breaking the filibusters. If the American people should bespeak themselves on the subject matter, and if the American people should become convinced that the Judiciary Committee did not follow an appropriate procedure for dividing up the 10-day period of time so that a fair cross section of points of view could be presented to the committee as a basis for possible amendment, they would resent it, and rightfully so. That resentment would cause the American public to say to hesitant Senators, who may find it difficult to vote for cloture, that they had better vote for cloture, and that the American people will hold them to political accounting if they do not vote for cloture. I believe that if the leadership of the Senate holds the Senate in session 24 hours, day and night, for a few weeks, all other business of the Senate should stop. I was a little surprised to learn that the Foreign Relations Committee had met this morning. I did not know about it, or I would have objected.

I am not going to support meetings of committees of the Senate. We are in it now. The issue has been drawn. So far as I am concerned, there is no time left for committee hearings. Stop the business of the Senate, except this business. Focus attention on this business. I believe that the 10-day hearings before the Judiciary Committee would give us a better bill. During that 10-day period, the Senate would be permitted to return to its normal business; but if we are going to keep civil rights on the floor of the Senate I am against any committee hearings. I heard the Senator some days ago say that he was against them, but I understand that some committee hearings are still being held.

I do not know what the parliamentary situation is. I hope that committees have not received permission to hold meetings in continuity during the debate. I announce tonight that I shall object to committee meetings being held. Even if all these fears should materialize, I still wish to have the bill go to committee, for the detailed reasons which I shall set forth later in the week when I make my argument that the bill be sent to committee, if I am privileged to make my motion this week.

It does not make any difference what is done in the committee procedure. If Senators wish to abuse the committee power—and I would consider the type of procedure that has been talked about as such an abuse—that would not stop a majority of the committee from filing a report. Once the bill is before the committee, nothing can stop the majority of the committee from filing a report. The Senator from New York [Mr. KEATING] is a member of that committee. I want to receive a report from the Judiciary Committee of which the Senator from New York is a member. The American people deserve and need the kind of report that a majority of the Judiciary Committee will write.

Let us not forget that once the bill goes to committee neither the chairman nor anyone else on the committee can stop the majority from filing a majority report. That majority report will be of utmost importance to the courts, as I shall show in great detail when I discuss this matter later this week. This issue is going to be litigated over and over again in the courts in the next decade. I want a Senate committee report for the courts to refer to. There is no better evidence. That is the best evidence. That is the best evidence, and I repeat it over and over again. I want the courts to have the best evidence as to what the bill means. We can get the best evidence only by having before us a committee report to which we can refer and to use as a basis of examination on the

floor of the Senate in the course of the debate.

I see my good friend from New York [Mr. KEATING] returning to the Chamber. I have great admiration and high respect for him. More than he knows, he is a teacher of mine in the field of civil rights. I want him to have his opportunity to join the majority of the Judiciary Committee to write a report on the bill. That committee cannot stop them from writing the report once the bill is before the committee. Nothing can stop that. Never in the history of this body has any Senate committee ever failed to carry out the instructions of the Senate. Figuratively speaking, any committee which did fail would be in contempt of the Senate. I hope no Senator will believe that the Senate is going to permit any of its committee agents to defy it. No one believes that the Senate would permit an agent committee to take the bill with instructions and then figuratively, when the time had expired, thumb its nose at the Senate.

Senators know what we would do if that were to happen. We would use our power to bring the bill back by majority vote, and then we would have something to say, by way of Senate action, against the committee or members of the committee or the chairman of the committee who defied the Senate. If we did not, I say, "Look out for our control over committees." That is what is involved here, as far as the Senator from Oregon is concerned. Senators can disagree with me. Those who disagree with me are as sincere as the Senator from Oregon and just as dedicated to civil rights as is the Senator from Oregon; likewise, I do not yield to any Senator in supporting a civil rights bill.

My good friend the Senator from Georgia [Mr. RUSSELL] does not disagree with me about sending the bill to committee, although he said the other day that the Senator from Oregon has not yet had the scales removed from his eyes regarding the bill.

I have some reservations with respect to certain parts of the bill. I hope we can clean them up, perhaps by amendment. I mention this only because the question has been raised in the colloquy during the last 45 minutes.

I want to have a committee report. I have great confidence in the Senator from New York and in the Senator from Michigan [Mr. HART] and other Senators on the committee. If we go down the list of the membership of the Judiciary Committee we see that of the 15 committee members 9 are ardent supporters of a thoroughgoing, constitutional civil rights bill. I wish to give them an opportunity to help the courts and to help the Senate, and also American public opinion. I do not believe that we shall be limited to nine members of the committee. I would not be surprised if one or two or three of the other committee members joined in writing the majority report. However, there is a group of nine members on the Judiciary Committee who could write a committee report of inestimable value to the courts, to the Senate, and to the country. I believe that is the way to pass the civil rights bill.

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

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

Mr. HILL. Mr. President, with the understanding that I retain my right to the floor and that I will be able to continue the speech I have been making since early in the day, I am glad to yield to the Senator from Ohio so that he may ask the Senator from Oregon a question.

Mr. LAUSCHE. Mr. President, what is the recollection of the Senator from Oregon about the vote that was cast when this issue was before the Senate several years ago by the then Senator Kennedy, subsequently our President, and finally our martyred President, and the vote that was cast by Senator Lyndon Johnson, who was then our majority leader and who now is our President?

Mr. MORSE. I say to my good friend, whose views I so deeply respect, that on February 26 of this year, when I presented the rather detailed argument on this subject matter, and was ably supported by the Senator from Ohio, the Senator from Oklahoma [Mr. MONRONEY], the Senator from Tennessee [Mr. GORE], and many other Senators, I pointed out that in 1957, when the same issue was before the Senate, and the Senator from Oregon also moved to send the civil rights bill to committee, we could have had a better bill, not the watered down bill that was finally passed. I do not believe it was worth the paper it was written on. However, that is a matter of opinion. Not much of the civil rights bill was finally passed then.

I led the fight then to send the bill to committee. I was ably supported by the brilliant argument made by the then Senator from Massachusetts, Jack Kennedy. What I said will be found in the RECORD of February 26 of this year. I was also very ably supported by the great Senator from Texas, then the majority leader of the Senate, Lyndon Johnson. I remember that in my speech of February 26 I was also ably supported—and in my judgment an irrefutable argument was made at that time—by the Senator from Montana [Mr. MANSFIELD], now the majority leader of the Senate.

I do not believe I misquote him—the RECORD, of course, will speak for itself—when I say that right up to the time of that debate the Senator from Montana held the view that in principle he thought the Senator from Oregon was correct.

I am always a bit unable to really understand the point of view that Mr. X can be right on principle, but that apparently the expediencies are not with him, and therefore we cannot support him. If we are right on principle, that is all we need to know. If one is right on principle, we should go down the line on that principle.

As we know, my good friend the Senator from Montana, for whom I have deep affection and personal regard, when we were beaten on February 26, when the point of order of the Senator from Georgia was laid on the table, asked unanimous consent to have the bill sent to the Judiciary Committee until March 4. It is true, as I recall, that a restriction was added to the request, that the bill could not be amended. I would be opposed to such a restriction. It was objected to. He tried it again the next day, and it was objected to again. He has made reference in the debate to the fact that there was a time for it to go to committee, and that the request was objected to.

In the first place, we placed an unacceptable restriction on it. In the second place, we all know he does not have a chance of having the bill referred to committee by unanimous consent. If the Senator really believes in the principle, he ought to be willing to support a motion to refer it to committee for whatever period of time can be agreed is fair and reasonable.

Those Senators were not the only ones who supported the proposal. In 1957 there was a good cross section of views among Senators who favored it. I hope all Senators will at least give me the benefit of the doubt and hear me on the legal aspects of my proposal before they finally make up their minds.

I realize how the Senate operates. Sometimes a Senator will come to me and say: "Wayne, where do you stand on the bill?"

I reply that I am against it. The Senator then asks me, "Do you mean you are against it, that your mind is closed and, that you will not listen to argument?"

I reply, "No. I never take that position."

If a Senator can show me in the last 5 minutes of debate that I am wrong on a position, I owe it to the people whom I represent to change my mind.

I hope that between now and the time the Senate finally votes on the motion to commit, enough Senators will have changed their minds so that the bill can be referred to committee for 10 days and that we may obtain a committee report. Whatever we do, we must have the committee report.

Some people do not like to hear me talk about the coffee agreement. I got into a little "hot soup" in the Senate the other day. Some leaders of the National Association for the Advancement of Colored People took affront because I thought the bill ought to be laid aside for 10 days, and that the Senate ought to take up the coffee agreement.

They asked: "Are you suggesting the substitution of a coffee agreement?" My answer is that we could not spend our time in a better way than to have a record made for a report by the Committee on the Judiciary and at the same time get the coffee agreement out of the way.

All the Ambassadors to Latin America were before the Committee on Foreign Relations last week. A surprising number of them talked with me about the coffee agreement. They said, in effect, "We want to stress, Senator, how important the coffee agreement is to the improvement of United States-Latin American relations."

The Senate could probably spend the 10 days on the coffee agreement. But suppose it did not. There is plenty of

other business to be considered. Examine the calendar. Many other measures are pending on which we could well afford to spend our time in those 10 days.

Mr. LAUSCHE. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HILL. I yield, with the same understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. What was the theory underlying the opposition that the then Senator Kennedy, the then Senator Johnson, and Senator Mansfield had in urging that the bill be referred to committee for study?

Mr. MORSE. Exactly the same reasons that I have presented. I presented them then, and I have presented them in this debate.

Mr. KEATING. Mr. President, will the Senator yield for a short comment on the remarks of the distinguished Senator from Oregon?

Mr. HILL. Does the Senator mean for 2 minutes?

Mr. KEATING. Approximately, or less.

Mr. HILL. With the understanding that I shall not lose my right to the floor, and that I may continue the speech where I stopped earlier in the debate, I yield to the distinguished Senator from New York for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEATING. I speak primarily to express gratitude to the Senator from Oregon for the extravagant praise he gave me by suggesting that I might be his teacher in the field of civil rights, or indeed in any field, and also for the enlightenment that he felt he and others might receive from a report written by the large majority of the Judiciary Committee, which, as he says, favors meaningful civil rights legislation. I would place the number of those who favor the bill at 10, more likely 11, rather than 9. Such a report might be useful.

However, the committee held hearings on a bill before it for 8 or 9 days. There was never any disposition to submit a report. A report would have been rather meaningless, because we had only heard one witness. If this bill is referred to committee, we will again hear only one or two witnesses. They will be picked witnesses, those selected by the distinguished chairman of the committee as the ones to present their views—such witnesses, for instance, as the Governor of Alabama or the attorney general of Louisiana. So I see nothing to be gained by referring the matter to the Judiciary Committee. If history repeats itself, there will be no record upon which the majority of the committee, strongly as they might feel, would be able to make any report. It will be an entirely inconclusive proceeding.

I am not sure the Senator from Oregon was in the Chamber during my earlier colloquy with the distinguished Senator from Florida. If the chairman of the Judiciary Committee were to say in the Chamber, "If the bill is sent to my committee, we will call as witnesses leaders of church groups, labor groups, business groups, leaders of all groups, and we will allow amendments to be offered and to be voted up or down in the committee during the 10-day period," that would put an entirely different light on the subject, so far as I am concerned.

I suggested to the Senator from Florida, and I suggest to the Senator from Oregon, that the best way to strengthen the case for this motion would be by obtaining a commitment of that nature from the chairman of the Judiciary Committee, so that the referral of the bill to that committee would have some meaning. As the situation now stands, it would be completely meaningless. I can understand how the Senator from Oregon, who is not a member of the Committee on the Judiciary, or any other Senator who is not a member of that committee, would not fully appreciate the utter fruitlessness of talking about civil rights in the Committee on the Judiciary as it is now constituted.

I have an impression that the President and the distinguished majority leader, Senator MANSFIELD, have reached the conclusion that now they should take a different position, so far as referring the bill to the Judiciary Committee is concerned. In that way, they have grown in their thinking, in my judgment, over the years since 1957. The reason is that they have come to the realization of the complete futility of referring any civil rights measure to the Judiciary Committee, no matter how it is referred.

I agree with the Senator from Oregon that it would be a devastating blow to our whole committee system to refer the bill to committee only to have it reported to the Senate as is. That would only make it a ministerial function for a committee that bears the honorable name of Committee on the Judiciary. If I felt that anything would be gained by sending it to that committee, I would like to see that done. However, I cannot see anything to be gained, and 10 more days would be lost in the process.

Mr. SMATHERS. Mr. President, will the Senator from Alabama yield so that I may ask the Senator from New York a question, without the Senator from Alabama losing his right to the floor?

Mr. HILL. Under the previous understanding, I yield to the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMATHERS. I rejoice to hear what the able Senator from New York has said. I would like to think, as the Senator from Oregon has well expressed it, that the committee system has worked, as it should.

Did I correctly understand the Senator from New York to say—I speak for no one but myself, because I am trying to get clear what the Senator from New York is saying—that if it is agreed that there will be witnesses other than the Attorney General of the United States, but witnesses representing every viewpoint with respect to the civil rights bill, if there is an agreement that such witnesses will be produced before that committee during the 10-day period, then, as I understand, the Senator from New York will vote for the motion of the Senator from Oregon?

Mr. KEATING. Oh, no. The very important point is that the witnesses not be witnesses selected by the chairman of the Committee on the Judiciary.

Mr. SMATHERS. I agree.

Mr. KEATING. And that the amendments that many of us would like to offer in the committee are voted up or down in committee. That is the most important part—more than hearing witnesses. We do not need to hear any more witnesses. We called several in our committee, and in three or four or five other committees. I have already placed in the RECORD the list of pages of testimony which we have had. We do not need any more witnesses. That is secondary.

While the hearing of further witnesses would be superfluous, I should be glad to hear additional witnesses. I think the president of the American Bar Association would be a fine witness. However, I understand that the American Bar Association has not taken a position on this measure. If it has, I should be glad to hear such witnesses; and I should be glad to hear witnesses from church groups and other groups. Then I would want the committee to vote the amendments either up or down. If the chairman of the committee would say that would be done in the committee, that would certainly put a different light on the situation, in my opinion; and I am sure the same would be true of the opinions of others.

IS THERE A WEAKNESS IN OUR NATIONAL DEFENSE?

Mr. SMATHERS. Mr. President, will the Senator from Alabama yield for a brief statement without losing his right to the floor?

Mr. HILL. Mr. President, with the understanding that I do not lose my right to the floor, I yield to the distinguished Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, last Friday, in Key West, Fla., one of the most surprising and shocking events occurred, it seems to me, with respect to our national defense since the days of Pearl Harbor. We have a $55 billion defense budget this year. We are spending great sums of money setting up defenses for ourselves. We are supposed to have, and I had assumed do have the most advanced and sophisticated radar system in the world. We have all kinds of defense mechanisms calculated to warn us if any enemy should ever start toward us, even if we claim a missile should be fired at us.

Strangely enough, with all of that protection, particularly with so much of it centered around the southern coast of Florida, we find the unusual occurrence of a helicopter taking off from Cuba with a couple of student pilots, and an instructor pilot, plus a gunner. The two students shot the pilot, took over the helicopter and apparently flew it right through our elaborate defenses and landed at the Municipal Airport in Key West, Fla. Apparently no one saw it

until it landed. No warning went up from the Navy, the Coast Guard, or the Air Force.

The manager of that airport, George Ferald, is a friend of mine. Apparently he went out and asked these people: "Where are you from? What are you doing here? That is a funny looking design you have on your helicopter." He looked inside the plane and saw the dead pilot. He then called the military to suggest that perhaps they had better come out and check into the situation.

Mr. President, the people throughout south Florida particularly and all Florida are concerned about the kind of defenses we really have.

Mr. MORSE. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I shall be glad to yield in one moment.

This helicopter was under the control of two students, and being obviously a slow-flying and low-flying aircraft, it may have gotten under the radar screens, which seems to be the explanation for it at the moment. Nevertheless, we are supposed to have some Navy personnel down there who claim to be making some observations, because if the helicopter flew low, and if a helicopter can get in that way, it is entirely possible that a whole series of helicopters and low-flying planes could come in and attack installations and cities of south Florida.

Maybe our defenses are absolutely perfect from 5 miles up or 1 mile up; and maybe it is perfect on the water, on the surface, but we have a gap from the surface up to 1 mile up, and we had better do something about it.

Particularly is this situation alarming, in view of the fact that as Joe Alsop wrote in his column this morning that the Soviet Union is now pulling its troops and construction workers out of Cuba and are turning over to Cuba their surface-to-air missiles and other sophisticated armaments which they brought in in 1961 and 1962. Raoul Castro, the brother of Fidel Castro, has said that the one ambition above all in his life is some day to drop a bomb on the United States. Possibly Soviet Union personnel, being tightly disciplined and controlled and recognizing that if they started something precipitately against us it would undoubtedly bring about total war, but remembering the implacable hatred of the Castro brothers for the United States in everything that we stand for, they now have control of these weapons, and, if they can get their aircraft into the United States as easily as this helicopter did, it seems to me it is about time that not only the people of Florida and the people of the Nation be concerned, but the heads of our Defense Command as well.

Today, I have written a letter to the Secretary of Defense, Mr. McNamara, who up until this point I thought was just about as fine a Secretary of Defense as we ever had.

I have read with great interest—and have always been in agreement with him—all the articles showing how well he was doing with our Defense Department.

Recently Secretary McNamara has made about three trips to South Vietnam. All of us know that South Vietnam is important to the United States and the free world, but South Vietnam is not as important nor as of much concern to the eastern seaboard of the United States and to the people of Florida, as is Cuba. If the Secretary thinks these people can conceive of more danger to them from South Vietnam than from Cuba, then he had better take another look, because that is not the case. These people are much more concerned about Cuba than about South Vietnam, for there is much greater danger from Cuba, directly to the United States than from what might happen from South Vietnam.

I respectfully recommend to the Secretary of Defense that he undertake no further trips to South Vietnam for the time being, but that, instead, he go to Key West, to see if he can find out how it was possible for this helicopter to get through this elaborate and expensive defense system and land at the Key West Municipal Airport without anyone knowing anything about it.

I now yield to the Senator from Oregon.

Mr. MORSE. The Senator has covered the point that I wanted to make about the helicopter.

PERSONAL STATEMENT BY SENATOR MORSE

Mr. MORSE. Mr. President, I rise to a matter of personal privilege. Over the weekend, Secretary of State Rusk has denied that his denunciation of opponents of his foreign policy, a denunciation delivered in Salt Lake City last Thursday night, was aimed at me or the Senator from Alaska [Mr. GRUENING]. The Secretary of State did not mention our names specifically.

Let it be clearly understood that the objection that he answers to his foreign policy, which he sought to raise, involved exactly the same objections that the Senator from Alaska and the Senator from Oregon have been expressing on the floor of the Senate and on platforms across America for many months.

It is of interest to note that the press, in writing articles which discussed the Secretary's comments, had no doubt as to whom the Secretary included within his remarks by clear implication. Anyone need only to read the position taken by the Senator from Alaska and the Senator from Oregon over the many months past, particularly with respect to South Vietnam, to know that if the comments of the Secretary of State were to be applied to anyone, they certainly would have to include the Senator from Alaska and the senior Senator from Oregon.

I find it hard to determine just whom the Secretary might have been referring to in that speech of last week. The political editor of the Salt Lake Tribune wrote a front page story on the Rusk speech which carries exactly the same sentences to which the Senator from Alaska and I took exception last Friday. The story written by O. N. Malmquist says in its second paragraph:

> And he sharply criticized as "quitters" those who would "quit the struggle by letting down our defenses, by gutting our foreign aid programs, by leaving the United Nations."
>
> "Insofar as anybody here or abroad," he said, "pays attention to the quitters, they are lending aid and comfort to our enemies. I feel certain that the American people will reject the quitters, with their prescription for retreat and defeat."

Before I prepared this answer to the Secretary of State this afternoon, I very carefully checked with newspapermen and found that the stories that were sent over the wires and the story of the gentleman whom I quoted in the CONGRESSIONAL RECORD on Friday coincided with what they heard in the speech. The Senator from Alaska and I made it very clear that although the Secretary did not name anyone, he caused the newspapermen who listened to the speech to have no doubt as to how all inclusive his remarks were so far as the critics of his policy were concerned.

In his television interview on Sunday, the Secretary indicated that he was directing his comments at persons who have written to the State Department and he wanted to emphasize that "we can't afford to relax our effort" to help South Vietnam fight off Communist guerrillas from the north. "I said let's don't quit."

Surely the Secretary does not think we are all that naive. No one can take seriously his implication that of all those Americans who oppose participation of American forces in Vietnam, he views only those who write the State Department about it as lending aid and comfort to our enemies.

These quotations are enough. He said these things, and he did not direct them at mere letter writers. The press account in the Salt Lake Tribune was written on the scene. The words "quitters lending aid and comfort to our enemies" are the words of Mr. Rusk, not of newspapermen.

Senator GRUENING and I quoted Secretary Rusk accurately in our Friday speeches. He said in the Salt Lake speech exactly what we said he said.

He did not say that his reference to "quitters" refers only to American citizens who have written letters to the State Department opposing the policies of Secretary Rusk and the administration as a whole of continuing their U.S. military intervention in South Vietnam.

I am afraid that on his television program Sunday, when confronted with the question concerning what he said in Salt Lake City, the Secretary of State suffered a convenient lapse of memory. But let me ask him, even if his belated rationalization and alibi concerning his Salt Lake City speech were true—and they are not—does he think that he can justify charging fellow American citizens who write to the State Department in protest of our South Vietnam policy with aiding and comforting the enemy, which is the constitutional definition of treason?

We still—at least, I hope we still—have the right in this country as free citizens to protest and petition our Government when we think our Government is following a course of action that is not in the public interest. American citizens, be they U.S. Senators or any other citizens, should have the right to make such protests without having a Secretary of State call them quitters or traitors or any other McCarthy approbrium he wishes to throw. Let the record be crystal clear that the senior Senator from Oregon now incorporates by reference every word of his Friday speech criticizing the Secretary of State, and the senior Senator from Oregon stands on that record.

I ask unanimous consent that the story of March 20 published in the Salt Lake Tribune, the story of March 23 published in the Washington Post, and the text of the Secretary's speech as distributed by the State Department be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. MORSE. Mr. President, the most that can be said for the Secretary's evasion is that the senior Senator from Oregon has always opposed the use of American forces in Vietnam. Perhaps the Secretary is trying to say that I cannot be called a quitter because I never favored sending American boys there in the first place.

I was opposed to it in 1954, when Vice President Nixon suggested in a "trial balloon" speech that the United States send forces to take up the Indochinese war, which the French were then losing. France was being licked in that war, despite our American financial contribution of $1.5 billion and her own manpower contribution. The Vice President made a famous speech in New York City on April 17, 1954, that initially could not be attributed to him. But it was not long before the press revealed that it was indeed the Vice President who proposed that the United States try to do what France was failing to do.

The New York Times account of that speech said:

> If France stops fighting in Indochina and the situation demands it, he said, the United States will have to send in troops to prevent the Communists from taking over this gateway to southeast Asia.

It makes no difference to me that it is now an administration of my own party that is doing very much the same thing that Mr. Nixon unsuccessfully proposed in 1954. It is just as unsound now as it was then. It makes no difference to me that large-scale American participation was undertaken in 1961 by an administration of my own party. Not Mr. Nixon, nor Mr. Kennedy, nor Mr. McNamara, nor Mr. Johnson, nor Mr. Rusk has made out a case that it is vital to the security of the United States that we send American forces to fight in the old Indochina.

I said in 1954 that the American people do not want flag-draped coffins returning from Indochina, and that statement is still true today. I said in 1954 that no justification had been offered to Members of Congress or to the American people for sending our forces into Indochina, and that statement is still true today. The name is now South Vietnam, but the place is the same.

In 1954, Admiral Radford was telling Congress that any American military intervention in Indochina should be on an all-out basis, including the use of atomic weapons, and that situation has not changed, either, for that trial balloon has been going up in this country within the past 3 weeks. It is being tried out, but that trial balloon will be punctured. If this administration insists upon it, it will be punctured politically. I am satisfied that the American people will call the administration to a political accounting when the administration starts following a course of action that would result in a continuation of the casualties of American boys in South Vietnam.

The great mass of the American people opposed our going into Indochina in 1954, and I am satisfied that they are still opposed to it. The Secretary of State should understand, when he says that this opposition is lending aid and comfort to our enemies, that he is talking about a very large percentage of the American people, he is talking about me, he is talking about my colleague from Alaska [Mr. GRUENING], and he is talking about a great many others in public life. There is a large body of American opinion that has reacted favorably or with considerable interest to the De Gaulle proposal that this area be neutralized.

I said on Friday, and I repeat today, that I happen to believe that the signatories to the SEATO Treaty have the same obligations with respect to South Vietnam that the United States has. Yet the fact is that the action in South Vietnam is unilateral action by the United States. I asked on Friday, and I have asked for weeks, and I shall continue to ask until I get an answer from this administration, "Where are our SEATO allies? Where are the other signatories to the SEATO Treaty? Where are Australia, Pakistan, Thailand, the Philippines, Great Britain, and France?"

Mr. President, let us not forget that when we consider the international basis for any United States action in South Vietnam outside the United Nations, it is clear that the only weak reed on which one can lean at the present time is the SEATO Treaty—a regional treaty. Regional treaties are generally authorized under the United Nations Charter, if it can be shown that they relate to the security of the countries covered by the region. But in that treaty there is only a protocol agreement by the signatories; and in that protocol agreement the signatories thereto said they had a mutual concern with and interest in the South Vietnam area. I should like to know what they consider it to be; I should like to know whether they think the only mutual concern they have is that the United States do a job for them. I should like to know whether the only concern they have in the area, under the SEATO agreement, is that they have a concern so long as the boys from outside the region who do the dying are American boys—not Australian boys, not Pakistanis, not Thai, not Filipinos, not British, not French.

I say to the administration, "You cannot evade this one. You are going to have to give to the American people some international law justification for the course of action the United States is following in South Vietnam. You are going to have to justify to the American people—and, if you do not watch out, before you get through you will have to justify to the world, also—why the United States is not now requesting United Nations assistance in connection with South Vietnam."

I say to the administration of my own party, "You are going to have to demonstrate what international law right the United States has to be in South Vietnam"—to say nothing, Mr. President, about what I consider to be its complete lack of moral justification. I am at a loss to understand what my country is doing in involving itself in what amounts to a civil war in South Vietnam, in which whole families are split—a son on one side, and his father on the other; an uncle on one side, and his nephews on the other. It cannot be justified unilaterally, Mr. President. The only possible way to justify it is to bring it within the framework of international law and within the jurisdiction of the international bodies which have authority in the premises.

Some are not pleased when I use language which the people can understand. But I am not a diplomat—all my colleagues know that—and I do not intend to be; and I do not intend to use diplomatic gobbledygook—so characteristic of so much of the language used by the State Department—to attempt to pull the blinders over the eyes of the American people, insofar as South Vietnam is concerned. My position is that we had better get right with all the international-law procedures which we may soon discover are applicable to us; and we may find ourselves—before we know it—hailed before existing international tribunals for an accounting of our intervention and our interference in South Vietnam.

In fact, I think we should be taking the lead in first giving the signatories to the SEATO Treaty an opportunity to reach some mutual agreement or understanding as to what should be, in fact, the course of action in South Vietnam. France is a signatory; and De Gaulle has made a proposal, although not too specific, and in my judgment couched in too broad generalities; but at least he has put us in a position where we have to do some explaining. He has made a proposal that we should give some consideration to the neutralization of that area of the world. Well, Mr. President, I should like to explore that proposal, and I should like to see my country explore it. But one cannot very well be working for neutralization, on the one hand, and at the same time be engaging in an offensive military course of action, on the other.

So I am only pleading, as a member of the Foreign Relations Committee of the U.S. Senate, that we start getting from the Secretary of State some specifics to

justify not only the course of action now being followed, but also what I fear are courses of action which those in the State Department have in mind if they can get the American people to keep their heads in the sand long enough to permit them to get by with such courses of action.

Regardless of whether those in the State Department fully appreciate it, let me say that millions of the American people have their heads out of the sand and high in the air, these days, and are asking and asking and asking questions about South Vietnam and the justification, if any, of American policy that is resulting in a gradual increase in the casualty list of American boys.

The State Department and the Pentagon are not pleased that I have been asking this question for some time; and the Secretary of State, without mentioning my name, talked about it the other night at Salt Lake City. As I have said on the floor of the Senate, and I repeat today, and as I have said on the platforms from coast to coast in America, and I shall continue to say so, South Vietnam is not worth the life of even one American boy; and I do not intend to sit in the Senate and vote for an American policy in regard to South Vietnam that is resulting in the unnecessary killing of American boys in South Vietnam. The time has come to call a halt; the time has come to use the great force of this Government in the field of international diplomacy to seek to resolve that dispute and to end the bloodshed that is now going on. At least we have a duty to make that our major effort, rather than to have further talk by leaders of this administration—who have made such pronouncements in recent days—that this aid is going to go on—and they used this language—"forever, if necessary."

Well, perhaps; but I do not think the American people will tolerate it forever. I believe the American people have just about caught up on the policy right now.

So, Mr. President, I close my remarks by saying that the Secretary of State must know that he cannot silence all these voices simply by making accusations of the kind he made in Salt Lake City. We are still waiting for a justification of his intervention policy.

Mr. President, I yield the floor.

[EXHIBIT 1]

[From the Salt Lake Tribune, Mar. 20, 1964]

U.S. WINNING, RUSK ASSERTS IN SALT LAKE SPEECH—DON'T DROP DEFENSES, SECRETARY ADMONISHES

(By O. N. Malmquist)

Secretary of State Dean Rusk Thursday night told an assemblage of political scientists in Salt Lake City that the central struggle between international communism and the free world is going well for the United States and the free world.

He declared that despite outbreaks of violence, forcible overturns of governments and disputes within the free world, U.S. foreign policy is succeeding.

And he sharply criticized as "quitters" those who would "quit the struggle by letting down our defenses, by gutting our foreign aid programs, by leaving the United Nations."

"Insofar as anybody here or abroad," he said, "pays attention to the quitters, they are lending aid and comfort to our enemies. I feel certain that the American people will reject the quitters, with their prescription for retreat and defeat. I believe the American people have the will and the stamina to push along the toilsome path to peace."

Secretary Rusk addressed a dinner meeting in Hotel Utah opening a 3-day annual meeting of the Western Political Science Association which was founded at the University of Utah 17 years ago.

The dinner was jointly sponsored by the Western Political Science Association and the International Studies Association.

The Secretary of State did not paint a rosy world picture. He said the State Department is fully aware that Moscow, as well as Peiping, remains committed to the Communist world revolution and a determination to "bury" us. He conceded that the United States is involved in numerous disputes within the free world which places us "in the middle." He pointed out that during 1963 there were 12 forcible overturns of governments and 1964 appears to be proceeding the same way. But he emphasized that the role of peacemaker is usually a thankless one and that it is from the middle that influence for a peaceful solution can often be exerted.

"The first objective of our policy toward the Communist states," he said, "is to prevent them from extending their domains—and to make it costly, dangerous, and futile for them to try to do so.

"In the main, the world struggle is going well from our viewpoint. West Berlin remains free and prosperous. So does Western Europe as a whole. So does Japan. Many of the less-developed nations have moved ahead impressively. And almost all of them, old and new nations alike, are stubbornly defending their independence.

"Meanwhile, the Communist world is not only torn by disputes but beset with economic difficulties. The standard of living in mainland China is even lower than it was in 1957, before the 'great leap backward.' The Soviet Union has done better but has encountered a slowdown in growth rates and critical problems of resource allocation. The smaller Communist countries of Eastern Europe lag far behind Western Europe.

"Even with massive Soviet support, Cuba's economy is limping badly. And nearly all the Communist countries have large and conspicuous difficulties in producing food. The notion that communism is a shortcut to the future for developing nations has just been proved false."

Secretary Rusk recognized several questions frequently raised by foreign policy critics and answered them.

One implied question was: Why do we seek agreements with adversaries and why do policies vary with different Communist countries?

He replied that agreements are sought to reduce the dangers of a devastating war; that policies are varied because "we believe that we can best further our objectives by adjusting our policies to the differing behavior of different Communist states—or to the changing behavior of the same state."

Another question was: Is it really necessary for the United States to become involved in free world quarrels? His answer was "Yes."

"Remote and complex as some of these quarrels may be, the reasons for our interests are direct and simple. Unless they are quickly settled through other channels, most of them come to the United Nations, where we have to take a position. * * * As a responsible member of the U.N. we could not avoid involvement in these disputes even if we felt little real concern about them.

"Usually, however, we do feel real concern. Disputes within the free world give the Communists opportunities to cause serious trouble. And there is often the danger that dispute will lead to crisis, crisis to skirmish, skirmish to local war, and local war with conventional weapons to a confrontation, deliberate or by suction, of the nuclear powers. As long as that possibility exists, the United States has a fundamental national security interest in the peaceful settlement of such disputes."

Another question was: Why, in U.N. actions, the United States assumes so much of the financial burden?

"Of course," he answered, "we think all nations should carry their fair share at all times. But not all nations have agreed with us; some have been opposed to keeping or restoring the peace because they believed their interests would be served by conflict.

"If we have carried a substantial share of the load it has been because we considered it in our national interest to do so. That was the case in the Congo."

He cited the Cyprus dispute as one which is of vital interest to the United States and the free world because it involves NATO allies.

He advocated improvements in the machinery of the U.N. and continuing efforts to build, bit by bit, a worldwide environment that is safe.

[From the Washington Post, Mar. 23, 1964]

RUSK DENIES CALLING TWO SENATORS QUITTERS

Secretary of State Dean Rusk denied yesterday that he had called Senators WAYNE MORSE, Democrat, of Oregon, and ERNEST GRUENING, Democrat, of Alaska, quitters for differing with him on U.S. foreign policy. He said no apology to them is necessary.

Rusk, interviewed on the radio and television show "Face the Nation," said his remarks in a speech in Salt Lake City last Thursday were not aimed at the Senators at all.

He said he was speaking against views expressed in mail received at the State Department and wanted to emphasize that "we can't afford to relax our effort" to help South Vietnam fight off Communist guerrillas from the North.

"I said let's don't quit," Rusk said.

MORSE and GRUENING favor disengagement in South Vietnam and back marked reduction in foreign aid programs.

MORSE, who wants the U.S. forces withdrawn, said in a Senate speech Friday that Rusk was resorting to McCarthy smear tactics and spoke of his use of the phrase "quitters." GRUENING said he agrees with MORSE, and Rusk should apologize.

Rusk said yesterday he is sure the Senators would not feel an apology was necessary once they read his speech. He attributed use of the term "quitters" to a news story, and added:

"Senator MORSE is not a man anyone would characterize as a quitter."

Rusk also called President Johnson's Saturday statement on Panama very important and said he was hopeful it would bring the two nations to the conference table soon.

President Johnson said the United States is ready to review every problem that divides the two nations, including any questions raised by Panama.

Rusk said no response had yet been received from Panama.

THE TOILSOME PATH TO PEACE

(Address by the Honorable Dean Rusk, Secretary of State, before joint meeting of Western Political Science Association and the International Studies Association, Hotel Utah, Salt Lake City, Utah, Thursday, March 19, 1964)

Mr. Chairman, members and guests of the Western Political Science Association and of the International Studies Association. I am honored that you have invited me to speak

here in this beautiful city, and I am indebted to you for reviving many pleasant recollections of my own years as a student and teacher of political science and international relations, including a stimulating tour in a western college.

The first objective of our foreign policy is, in the words of the Preamble to our Constitution, to "secure the blessings of liberty to ourselves and our posterity." The blessings of liberty lie at the heart of the world struggle in which we are engaged. The central issue in that struggle is coercion versus free choice, tyranny versus freedom. And the most powerful assets we have in this struggle are the ideas out of which this Nation was born and has grown. For these ideas and ideals are shared by most of mankind—including, I am convinced, a majority of those behind the Iron and Bamboo Curtains.

As I said elsewhere last month, I believe that every American boy and girl should be familiar with the American system of Government and the ideas out of which it developed. I believe that each of our young should know that the priceless liberties which we enjoy did not spring into being overnight, that they were worked for and developed and defended—often with blood—over the generations, that they should never be taken for granted, that they can be preserved only by exercising them and by our vigilance and dedication.

Tonight I should like to look with you at the world around us and appraise where we are in the struggle between tyranny and freedom. Beyond question, this is a dangerous and turbulent world; a world of rapid change; of ever-accelerating scientific and technological advance; of transition from old empires to new nations; of the rise of former colonial peoples to independence and equality; of urgent demand for social and economic progress, for a better life for all. It is a noisy and disputatious world. It gives us in your State Department plenty of work to do.

It is quite true that other nations don't always talk or act as we would prefer. President Johnson reminded us a few days ago that we are living in a world of 120 foreign policies. We don't give orders to other nations—we don't believe in the kind of world in which any government takes its orders from others. As President Johnson said, there are "people who feel that all we need to do is to mash a button and determine everybody's foreign policy. But we are not living in that kind of world anymore. They are going to determine it for themselves, and that is the way it should be. And we are going to have to come and reason with them and try to lead them instead of forcing them."

Let me try to put our problems in perspective. Roughly, there are four different kinds of international problems with which we have to deal.

In the first category are strictly bilateral issues between us and other governments. These usually have to do with trade or the protection of American nationals or property. They rarely involve dangerous issues. At present, we do have a painful dispute with our friends in Panama. Formally, it is a bilateral dispute. But, because the Panama Canal is an important international convenience, the dispute affects a great many other countries, especially those in this hemisphere. The Organization of American States has been trying to help move this dispute toward the conference table. We look forward hopefully to the restoration of relations between Panama and the United States and to friendly discussions and adjustments of our common problems and interests.

A second group of problems involves directly the central struggle between international communism and the free world. These include such dangerous and explosive issues as Berlin and Germany, Vietnam and Laos, and Cuba. In these issues, we do and must play a leading role.

Nobody need tell us in the State Department, or in our sister departments or agencies, that this world struggle is for keeps. Knowing what the Communists are up to and understanding their varied techniques are a major order of business in the State Department. We are fully aware that Moscow, as well as Peiping, remains committed to the Communist world revolution—and that, although they may differ over current tactics, both are determined to bury us and are prepared to try to expedite our demise by whatever means they think are effective within the levels of tolerable risk to themselves.

The first objective of our policy toward the Communist states is to prevent them from extending their domains—and to make it costly, dangerous, and futile for them to try to do so. To that end we maintain a nuclear deterrent of almost unimaginable power, and large, varied, and mobile conventional forces. We have also improved our capacity to deal with guerrilla warfare.

Not since Korea has the Communist world attempted to expand by frontal assault. We and other free nations must be determined to put an end also to indirect aggression—to the filtering of men and arms across the frontiers, whether in southeast Asia, Latin America, or anywhere else.

We also combat Communist imperialism by helping the developing countries to make economic and social progress.

In the main, the world struggle is going well from our viewpoint. West Berlin remains free and prosperous. So does Western Europe as a whole. So does Japan. Many of the less developed nations have moved ahead impressively. And almost all of them, old and new nations alike, are stubbornly defending their independence.

Meanwhile, the Communist world is not only torn by disputes but beset with economic difficulties. The standard of living in mainland China is even lower than it was in 1957, before the great leap backward. The Soviet Union has done somewhat better but has encountered a slowdown in growth rates and critical problems of resource allocation. The smaller Communist countries of Eastern Europe lag far behind Western Europe. Even with massive Soviet support, Cuba's economy is limping badly. And nearly all the Communist countries have large and conspicuous difficulties in producing food. The notion that communism is a short cut to the future for developing nations has been proved false.

While we curb Communist imperialism, we seek agreements with our adversaries to reduce the dangers of a devastating war. The Soviets appear to recognize that they have a common interest with us in preventing a thermonuclear exchange. We and they have reached a few limited agreements. These do not yet constitute a detente. We shall continue to search for further agreements. But in the field of disarmament, not much progress can be made until the Soviets are prepared to acept reliable verification and inspection of arms retained. And on many vital issues, Moscow's views and the West's remain far apart.

Beyond curbing Communist imperialism and trying to achieve specific agreements to reduce the danger of a great war, there is a third element in our policy toward the Communist States. This is to encourage the trends within the Communist world toward national independence, peaceful cooperation, and open societies. These trends are visible, in various degrees in different parts of the Communist world. Our capacity to encourage them is very limited. But we may be able to influence them somewhat.

We believe that we can best further our objectives by adjusting our policies to the differing behavior of different Communist States—or to the changing behavior of the same state.

A third category of problems might be labeled "other people's quarrels." The postwar explosion in the number of new states has multiplied disputes about boundaries, some old and some new. These are sometimes accentuated by racial, religious, and tribal frictions whose origins precede the discovery of America. And we are learning that small countries, too, can fear small neighbors.

Then, there are internal outbreaks of violence and coups which add to the headlines, and often to our headaches. In 1963, there were 12 forcible overturns of governments.

Passions are flammable and all too often the fuse is dangerously short. Ambition and guns seem to be in ready supply. Responsibility and public order are too often in short supply.

Two questions therefore arise—understandably. One is: Does the United States really have to be concerned about all of these quarrels? This question is asked frequently in the Department of State when a new dispute within the free world arises or an old one flares again. And the answer almost always turns out to be: "Yes, we do."

Remote and complex as some of these quarrels may be, the reasons for our interests are direct and simple. Unless they are quickly settled through other channels, most of them come to the United Nations, where we have to take a position. The U.N. Security Council is presently seized with 61 matters, of which 57 are disputes. Fortunately, some of these disputes are no longer active. But many are. As a responsible member of the U.N., we could not avoid some involvement in these disputes, even if we felt little real concern about them.

Usually, however, we do feel real concern. Disputes within the free world often give the Communists opportunities to cause more serious trouble. And there is often the danger that dispute will lead to crisis, crisis to skirmish, skirmish to local war, and local war with conventional weapons to a confrontation, deliberate or by suction, of the nuclear powers. As long as that possibility exists, the United States has a fundamental national security interest in the peaceful settlement of such disputes.

Then, too, disputes within the free world dissipate energies and resources which are needed for constructive purposes. We have an enduring long-term interest in building the strength of the free world. And we have a dollars-and-cents interest in the most effective use of the aid we provide to the developing nations. If India and Pakistan would settle their quarrels and cooperate with each other in the common defense of the south Asian subcontinent, not only would that part of the world be more secure, but both countries could improve the living standards of their peoples more rapidly and at less cost, overall, to themselves and to the nations which are assisting them.

Finally, we simply are too big to hide: We happen to be the most powerful Nation in the world. Parties to any dispute like to have strong friends on their respective sides of the barricades.

I do not recall an international dispute of the last 3 years in which each party has not solicited our support and suggested what we should do to bring our weight to bear against its opponent. Much as we may dislike it, this, of course, often puts us in the middle. But it is from the middle that influence for a peaceful solution can often be exerted.

In this process, we obviously cannot agree with all the parties, nor can we usually agree 100 percent with either party. So, to the extent that we are drawn in, we usually leave both sides somewhat dissatisfied, and on occasion a bit angry with us. The role

of the peacemaker is usually thankless, at least on the part of the parties to the dispute. But it is a responsibility we dare not shirk.

Does this mean that the United States must be the policeman—and the judge—for the entire free world? That is the second of the two general questions about our role in "other peoples' quarrels." The answer is "No." It is impracticable and would be presumptuous for one nation to try to patrol every "beat" in the free world. There are other—and better—ways of making and keeping peace.

These lie in the activities of groups of nations either informal or organized. The advantages are perhaps obvious. But, as the late Justice Oliver Wendell Holmes once said: "We need education in the obvious more than investigation of the obscure."

In some cases, a few important neighbors or other friends may be helpful. In others, regional organizations, such as the Organization of American States and the Organization for African Unity, may be useful. In still others, the United Nations may be the most effective instrument.

An international organization is often more acceptable politically than any of its members acting individually. The flag of the United Nations is the emblem of a world community. It can be flown in places where the flag of another sovereign nation would be considered an affront.

When we act in concert with others, the responsibility for success—or failure—is shared. And, when we contribute to international peacekeeping missions, the costs also are shared.

There has been some suggestion that the United States has carried somewhat more than its fair share of the financial load while other nations have carried less than their share or none at all.

Of course, we think that all nations should carry their fair share at all times. But not all nations have agreed with us; some have been opposed to keeping or restoring the peace because they believed their interests would be served by conflict.

If we have carried a substantial share of the load it has been because we considered it in our national interest to do so. That was the case in the Congo. President Eisenhower passed up a request from the Government of the Congo to intervene directly and turned, instead, to the United Ntaions. When President Kennedy took office, he reviewed the situation and decided to adhere to that policy. Eventually we bore something more than our normal share of the cost of this United Nations operation, but the expense to us was unquestionably much less than that of alternative ways of restoring order, and keeping the Communists from establishing a base in this potentially rich country in the heart of Africa.

Now, the United Nations has undertaken to restore order and peace in Cyprus and to mediate the dispute between Cypriots of Greek and Turkish descent.

The settlement of this dispute involving two of our NATO allies and the security of NATO's southeastern flank is of vital interest to us and all the free world.

It is in our national interest, and in the national interest of all peaceful countries, to help create, train, and finance workable and effective international police machinery—to share our own capacity to act in the service of peace and to share responsibility for keeping the peace.

We applaud the decisions taken by the Nordic countries and by Canada and Holland to earmark and train special units to be on call for peacekeeping duties with the United Nations. We therefore shall continue to work for a much more reliable system of financing such operations: The thought that the issue of peace or war might turn on the availability of relatively small amounts of money is an offense to mind and morals.

But I do not want to place all the emphasis on a police force ready to rush out after disputes have broken into violence. The first order of business is to seek a resolution before violence occurs. And this, of course, means early recourse to negotiation, mediation, arbitration and any techniques of fact-finding and observation that can help to clarify and defuse incipient threats to the peace.

If this can be done through regional organizations without recourse to the United Nations, so much the better. If it can be done directly—or with the assistance of an impartial third party—better still. But, the world being what it is, more and more of these disputes are likely, in one form or another, to come before the United Nations.

The United Nations is an imperfect organization—no one knows that better than the policymakers and policy executors who work in it and through it. The need for various improvements in the United Nations machinery has become increasingly clear. And not all of these require amendment of the charter. Recently I suggested the consideration of several steps to improve the procedures of the General Assembly—steps designed to limit irresponsible talk and symbolic resolutions and to promote responsible decisions and recommendations—decisions and recommendations which will have the support of the nations which supply the U.N. with resources and have the capacity to act.

Despite the difficulties which it has obviously experienced the United Nations commands our continuing support. As President Johnson said to the General Assembly last December 17: "More than ever we support the United Nations as the best instrument yet devised to promote the peace of the world and to promote the well-being of mankind."

Improving and strengthening the United Nations is an important part—but only a part—of our greatest task; the building of a decent world order. Today, our Nation and our way of life can be safe only if our worldwide environment is safe. By worldwide I mean not only the land, waters, and air of the earth but the adjacent areas of space, as far as man can maintain instruments capable of affecting life on earth. Our worldwide environment will be permanently safe only if mankind succeeds in establishing a decent world order.

An enromous part of our work in the State Department has to do with building, bit by bit, a decent world order. This receives relatively little attention in the headlines, but it goes on, day after day, around the clock. It includes hundreds of international conferences a year, many of them on technical areas of international cooperation and understanding—such as the control of narcotics, commercial aviation, postal services, etc.

This vast constructive task is the heart of all we are doing to develop closer ties between ourselves and other countries of the free world. It underlies our efforts to build under the umbrella of the NATO alliance an effective Atlantic community, and to achieve closer unity with our friends in the Pacific. It underlies our efforts to execute the grand design of an Alliance for Progress among the nations of this hemisphere. It underlies our efforts to create an effective partnership between the economically advanced countries and those that are newly developing.

This vast constructive task involves the lowering of barriers to world trade. It involves our foreign aid programs which support the independence and the economic and social progress of the developing countries. It involves all that we do to promote cultural and other exchanges with other nations.

We do not—and must not—allow the drumfire of crises in the headlines to cause us to neglect the building of a decent world order—the kind of world set forth in the preamble and articles 1 and 2 of the Charter of the United Nations. We are working toward: a world free of aggression; aggression by whatever means; a world of independent nations, each with the institutions of its own choice but cooperating with one another to their mutual advantage; a world of economic and social advance for all peoples; a world which provides sure and equitable means for the peaceful settlement of disputes and which moves steadily toward a rule of law; a world in which the powers of the State over the individual are limited by law and custom, in which the personal freedoms essential to the dignity of man are secure; a world free of hate and discrimination based on race, or nationality, or color, or economic or social status, or religious beliefs; and a world of equal rights and equal opportunities for the entire human race.

We believe that is the kind of world which most of the peoples of the world want. That is the goal toward which we are working, tenaciously and untiringly. And we are making headway. If we persevere, we shall eventually reach our goal: A world in which the "blessings of liberty" are secure for all mankind. We dare not falter. For, unless the world is made safe for freedom, our own freedom cannot survive.

There are those who would quit the struggle by letting down our defenses, by gutting our foreign aid programs, by leaving the United Nations. They would abandon the field to our adversaries. That is, of course, what the Communists want most. It is no accident that their favorite slogan is "Yanks, go home." Insofar as anybody here or abroad pays attention to the quitters, they are lending aid and comfort to our enemies. I feel certain that the American people will reject the quitters, with their prescription for retreat and defeat. I believe that the American people have the will and the stamina to push on along the toilsome path to peace.

Mr. GRUENING. Mr. President, last Friday in the Washington News, a Scripps-Howard newspaper, there appeared an article signed by Mr. R. H. Shackford, a Scripps-Howard staff writer, that reported on and further interpreted a speech the night before in Salt Lake City by the Secretary of State, Mr. Rusk.

As a former newspaperman and managing editor I am familiar with the mechanics of writing and printing a story in a metropolitan daily. I know perfectly well that that story was not composed on Friday morning in time for the afternoon News, after the press dispatches came from Salt Lake City. The story was written the day before with a State Department release containing the text of Secretary Rusk's speech, in the possession of Mr. Shackford. He embroidered it considerably.

Mr. Shackford began his story by saying that Secretary Rusk had "started a quiet campaign to answer those who said, 'South Vietnam is not worth the life of one American boy.'"

I have said that. I have expressed that view on the floor of the Senate. I repeat it now, and I shall continue to repeat it. Those of us who have studied the record of 10 years of tragic futility, 10 years of pouring billions of dollars into the bottomless pit for a people exploited by corrupt dictators who have stolen millions of the dollars we have

poured in there and for a people who have shown no heart to fight, feel deeply that it is time to reassess our policies and that we quit, as far as sacrificing any more American lives are concerned. If that makes us quitters, then I say we should indeed quit this costly and bloody folly. How many more lives must we sacrifice in this wanton wasteful pursuit.

Secretary Rusk, in an interview on television on Sunday, stated that he had not referred to any Senators. I am happy to accept that statement. I shall take his word for it.

But in that case Mr. Shackford rendered a great disservice to Mr. Rusk, for in his story he stated that that is what Secretary Rusk intended. The story is definitely tendentious and slanted, for it links the Senator from Oregon [Mr. MORSE] and the Senator from Alaska with the following sins:

First, in addition to asking that we take our boys off the firing line in South Vietnam, where they should never have been, we are charged with "gutting our foreign aid programs."

I am convinced that we greatly improved the foreign aid program, and that events will increasingly prove it. We managed to amend the Foreign Assistance Act of 1963 to eliminate some of its extreme follies. We sought to eliminate the payment of millions of dollars to ruthless dictators who are using these funds to wage war against other recipients of our foreign aid.

We added to the bill amendments, which would deny aid to aggressor nations whose rulers are taking American dollars designed to help their indigent and their poor and using that money to make war against other countries which are also recipients of our foreign aid, bombing their villages, killing their people and keeping the whole Middle East in ferment. Aggression of the Far East is likewise threatened by dictator Sukarno. To that extent the Congress improved and amended the foreign aid program, but did not gut it. We improved it, as events will show. It can be further improved and should be.

In addition, the Senator from Oregon and the Senator from Alaska were charged by Mr. Shackford, interpreting Secretary Rusk, with "letting down our defenses." I doubt that the Senator from Oregon needs any defense from me, but, speaking for myself, I have never failed to vote for any defense appropriation. On the contrary, for 25 years I have contended that in certain aspects our defenses were far from adequate and have sought to have them strengthened. For 25 years I have contended that Alaska holds a strategic position in our defense system which has never been adequately appreciated by our military. The position of Alaska in the world, defensively and offensively was correctly immortalized by Billy Mitchell 29 years ago when he said: "He who holds Alaska, holds the world."

But his wisdom concerning the military importance of Alaska was as little appreciated by the high Navy and Army brass at that time as were his prophetic and sound utterances about the value of air power.

I have contended unceasingly that our defenses in Alaska were inadequate. Alaska is in an area which is within naked-eye view of Soviet Russia, and occupies the only terrain under the American flag that fronts on the strategic Arctic Ocean.

So Mr. Shackford's statement associating the Senator from Alaska with "letting down our defenses" is wholly false.

He further included the two Senators in the charge that we urged "leaving the United Nations." I have not only not so urged, but I feel very strongly that the United Nations should be supported in every way. I have never taken any other position.

In his further biased and falsifying article Mr. Shackford said that the Senator from Oregon [Mr. MORSE] and I both suggested that the United States should pack their bags, quit South Vietnam, "and leave that country to the Communists."

I do not know that it follows that if we take our American boys from the firing line in South Vietnam we shall leave that country to the Communists.

Mr. Shackford inserted these words; they are his, not mine.

It is by no means certain that this will follow, although it is a possibility. But it is equally possible that the Chinese, who certainly may be coveting southeast Asia, will find the attempted absorption of this area, violently anti-Chinese for 1,000 years, as much of a problem as did the French, who lost 175,000 men trying to hold it, and as the United States has found in the last decade. It may conceivably intensify Red China's problems.

In any event, as the Senator from Oregon [Mr. MORSE] has repeatedly urged—and I agree with him—we have no business being there all alone. In Korea we were not only supporting a people who wished to fight, but we were part of a United Nations team, and the troops of a dozen nations fought side by side with ours. That is not the case in South Vietnam.

I am perfectly willing, and have so declared, to give the South Vietnamese arms, ammunition, and transportation facilities to enable them to carry on their fight. It is their fight, but it is a fight in which we should no longer—if indeed we ever should have—sacrifice the lives of American boys.

If Secretary Rusk did not intend to refer to the Senator from Oregon [Mr. MORSE] and to me, but was referring to people who had written to the State Department, and he has so stated, Mr. Shackford certainly owes an apology to him as well as to us and to the newspaper profession, which he has not honored in this highly biased and distorted account.

Since I made my speech on the Senate floor on March 10th urging that we take our boys off the firing line and cease sacrificing American lives I have received some 50 letters. Only one disagrees with my position. So the mail to date runs 50 to 1 in favor of the policy which I urge.

I agree with the Senator from Oregon [Mr. MORSE] that it is time for the administration, the State Department, and the Pentagon to reassess our southeast Asia policy.

There are various ways in which it can be done. I am not prepared to say that the suggestion thrown out by General de Gaulle furnishes the answer, that of neutralizing Vietnam, but it is worth exploring. The plea for such exploration and of other possible alternatives has been voiced on the floor of the Senate by our distinguished majority leader, the Senator from Montana [Mr. MANSFIELD], who is more expert on the subject of southeast Asia than any other Senator, or, indeed, any other Member of Congress. It has been voiced by my colleague from Alaska [Mr. BARTLETT].

I believe it is about time for us to face the harsh realities and stop this senseless killing of our American boys in the most distant area of the globe that has only a remote bearing on the security of the United States.

DANGEROUS PORTENTS IN CHILE

Mr. JAVITS. Mr. President, I wish to report to the Senate upon a visit which I made to Chile, and from which I returned last Tuesday, with respect to the political situation there, which is a difficult one, and with respect to a development there of a more hopeful character for the Americas.

I had the privilege while I was in Chile of addressing the 10th plenary session of the Assembly of Businessmen of the Americas sponsored by the Inter-American Council of Commerce and Production, the short name for which in Spanish is "CICYP."

Attending the session in Santiago, Chile, was probably the most representative group of U.S. executives doing business in Latin America and of Latin American business leaders gathered together in a long time. We met in Chile at a critical time, for that country is not only in a social crisis, but a political crisis as well.

There is a grave danger that Chile may become the first nation in the Western Hemisphere—or indeed, the first nation anywhere—to elect, under democratic processes, a government which includes openly declared Communist participation. The danger is that such a government would prove to be Castroite in nature, and would be, in effect, a new Cuba based on the South American mainland.

I ask unanimous consent that I may include in the RECORD at this point of my remarks a news article from the New York Times of this very morning, which in essence bears out the conclusion I have just mentioned.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COALITION OF CENTER AND RIGHT IN CHILE COLLAPSES

(By Edward C. Burks)

SANTIAGO, CHILE, March 22.—Chile's once powerful alliance of center and right-wing parties finally broke apart this weekend.

As a result, the battle for the presidency is now principally between a Communist-backed Socialist who is a supporter of Premier Fidel Castro of Cuba, and a left-wing Christian Democratic reformer.

Both Senator Salvador Allende of the Socialist-Communist Popular Action Front and Senator Eduardo Frei Montalva of the Christian Democrats are sharp critics of the present Chilean Government. They are also critical of the way the United States has operated in the Alliance for Progress.

Both men call the present regime a false democracy that has preserved the privileges of the upper classes without effectively attacking the misery of millions of the poor.

Both also call for a shake-up of the copper mining industry, Chile's main enterprise, to give the country control of, or a bigger say in, its operation. Three American-owned mines produce more than 85 percent of Chilean copper.

ELECTION IN SEPTEMBER

The presidential election is set for September 4. Senator Frei says communism is undoubtedly the majority force in the Popular Action Front, which is supporting Dr. Allende. Senator Frei declares that if elected he will put through reforms while respecting democracy and the constitution.

Dr. Allende, at a giant outdoor rally, declared: "I am not a Communist. I am the founder of the Socialist party. And because I am a good Socialist I have to be at the side of our Communist brothers."

He asserted that in his long public life, including service as a Government minister, he had always stood for social justice and never for anything that destroyed personal liberties. He promised to protect freedom and declared that his movement rejected violence.

Members of the front say that the well-organized Communists make up slightly less than half of the alliance. They note that in 1946–47 Chile had a popular front, with three Communist ministers under a Radical President.

In the confused array of parties here, the Communists have accounted for about 12 to 14 percent of the total vote in recent national elections. Yet the Socialists are often more militant in demanding sharp reforms.

The collapse of the Democratic Front of middle-of-the-road and right-wing parties came about in just one hectic week.

The executive committee of the moderate Radical party voted Friday to end its alliance with the right-wing Conservative and Liberal parties. For several years this alliance supported the independent President Jorge Alessandri Rodriguez, both in Congress and by making up most of his Cabinet.

The Radicals, the biggest of the three parties in the alliance, were increasingly restless over what they felt was the slow pace of social reforms to give the masses better living standards and greater educational and job opportunities. They withdrew from the Cabinet last year, sensing a growing popular disillusionment with the Government. Since then the economic situation has worsened.

The Radicals executive committee also voted to end their remaining ties with the Alessandri Government. They called for the resignation of Radical subministers and Radical ambassadors abroad, including Carlos Martinez Sotomayor at the United Nations.

Dr. Allende, who has great personal popularity, is making a strong effort to win the Radicals over to his side in what could be a decisive maneuver of the campaign. Some important Radical leaders show considerable interest in his offer.

Other Radical leaders say that the party, at its special national convention set for April 4, should pick a new candidate to replace Senator Julio Durán, whose sudden withdrawal brought the present crisis to a climax. Still others in the party look toward Senator Frei now.

Mr. JAVITS. Mr. President, the people of the United States might be dismayed at this notion of a Castroite Chile, but it is vital that we consider the possibility now, rather than after the fact—if, most unhappily, it should prove to be a fact.

Certainly, the results of the congressional election in the Chilean Province of Curicó—which occurred while I was in Santiago—has been interpreted in Chilean circles as a dangerous portent.

The results in Curicó showed a sharp reversal in the strength of the Democratic front coalition which dominated the municipal elections held about a year ago.

A comparison between the results of this election and the national municipal elections held in April 1963, shows that in April 1963 the Democratic front received 49.5 percent of the vote in Curicó Province, while in March 1964 it received 32.5 percent of the vote.

By contrast, in April 1963 the Socialist-Communist coalition, FRAP, received 29 percent of the vote, while in March 1964 it received 39.5 percent of the vote.

In April 1963 the Christian Democrats received 21.5 percent of the vote, while in March 1964 they received 28 percent of the vote.

The FRAP, or the Socialist-Communist candidate won that congressional by election.

It is a small consolation to those who prefer freedom that the Socialist-Communist alliance was able to gain that plurality only because the Democratic Front and the Christian Democrats were divided.

Now, in the wake of last week's election, the presidential candidate of the Democratic Front has bowed out of the race, leaving only the candidate of the smaller Christian Democratic Party to oppose the Socialist-Communist alliance in next September's presidential elections.

One cannot precisely say what would happen if the Socialist-Communist group won the presidential election, or how our people or our Government would react. But certainly the people of the United States would be dismayed, and our present policy toward Chile reconsidered. This policy is typified by loans—one just recently announced for $70 million—and by a partnership of interest in the destiny of Chile and the well-being of its people—and by a partnership which led to our investment of $768 million out of the total $8.5 billion U.S. investment in Latin America.

Let us also note that the President of the United States, in his foreign aid message just the other day, specifically mentioned Chile as one of the nations in which we intend to concentrate Alliance for Progress funds, and as the country which has established an economic development arrangement with one of our States, California, to underscore the importance of Chile in the eyes of the United States.

The lesson of the Curicó election is that there is an urgent need for indefatigable activity by the freedom parties to counter the indefatigable efforts of the Socialist-Communists, and that the status quo is unacceptable to the people of Chile. They want accelerated development and greater opportunity in education, housing, health, and jobs, including those on the higher management levels.

It is almost inconceivable that the promises of the Socialist-Communist group could be more persuasive than the proven capability of a free society to deliver. The key to giving the people the kind of encouragement, hope and assurance they are seeking is in the private sector, which should be enlisted in this effort to show the responsibility for social progress which has been announced by the declarations of CICYP, on which I am now reporting.

I appeal to the businessmen who gathered at Santiago, under the auspices of CICYP, to treat Chile as its first effort under the Declaration of Santiago and to give the people basic assurances of the acceleration of their development and progress. The Socialist-Communist forces can only promise, but the private section business community can deliver.

The majority—close to 61 percent—who voted for the democratic parties in the Curicó election, show that most of the people want to remain free, and will do so if given hope and opportunity.

Against the backdrop of these developments, the 10th Plenary Assembly of Businessmen of the Americas sponsored by the Inter-American Council of Commerce and Production was momentous in its importance. CICYP is a hemisphere-wide organization, founded in 1941 to speak for free enterprise in Latin America, promote closer association among industrialists and businessmen of the Americas, and to combat the tendency of governments to encroach on the field of business. The assembly last week adopted the "Declaration of Santiago," and appropriate resolutions providing for the effective participation, on an accelerated basis, by the private sector of the Americas—cooperating with the governments of the Americas—in the Alliance for Progress. The assembly caused its president, George Moore, who is also president of the First National City Bank of New York, to communicate its resolution to the President of the United States. It will be noted that the businessmen of the Americas responded to the President's call, made in his address to the OAS last Monday, for private enterprise participation in the Alliance. They committed themselves to active participation in public as well as economic affairs in the fight for freedom and social progress for all peoples, in Latin America, particularly the underprivileged. This is likely to prove to be a historic document, for the businessmen of the Americas have set as their goal: "Promoting the economic integration of the hemisphere, expanding trade, attaining the social progress contemplated by the goals of the Alliance, and improving the education of youth."

It is generally supposed that U.S. policy in Latin America should seek to foster freedom as well as economic development; social justice as well as the safety

of American investments. It is also argued that we should not become involved in the internal affairs of the hemisphere's republics.

But two very important supplements must be made to these principles:

First, since private enterprise is vital to the attainment of our objectives, we should join in the development of conditions under which private enterprise can operate effectively and without discrimination to its own and the public interest.

Second, while we may not interfere in the internal politics of any country, we certainly have the right to express disapproval of the denial of free institutions in any country. We can do this directly or through the international organizations to which we adhere.

In this respect, I believe we should not give the impression that the United States intends to recognize rightist and military dictatorships that may emerge in Latin America. I believe we should make our decisions on a case-by-case basis, depending on how the basic principles for which we stand may best be served. I cannot conceive of our country, at any time, being party by aid, comfort, or recognition, to any government which does not promise self-determination and freedom within some proximate time.

The main problem faced by private enterprise in Latin America has been the charge that it is not concerned with social progress. Although this charge is unwarranted in many cases, it has nonetheless persistently plagued the operation of private enterprise there, causing many difficulties in discriminatory taxation, nationalization, exchange, and in many other areas. It must be recognized that at least 70 percent of all economic activity in Latin America is carried on by private enterprise, and that, contrary to a wide-spread impression, 90 percent of this private enterprise is owned by Latin American investors themselves.

One manifestation of the effort of private enterprise to effectively aid in the development of Latin America and in securing it for freedom has been the multinational, private investment project of ADELA—Atlantic Community Development Group for Latin America—which is proceeding most auspiciously with Western European, United States, and Japanese paricipation, as I have previously reported to the Senate—a matter in which the Senator from Minnesota [Mr. HUMPHREY] and I have joined hands in sponsoring in the United States.

The key to success in Latin America is in two programs: First, an acceleration of regional economic integration, and second, expansion of the role of private enterprise in Latin American development. The historic declarations to which I have referred, and the businessmen's assembly which now sponsors them, will prove a real turning point in the success of freedom in Latin America.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD as part of my remarks a copy of the Declaration of Santiago adopted by the 10th Plenary Assembly of Businessmen of the Americas, a statement by the Senator from Minnesota [Mr. HUMPHREY] sent to that assembly, along with an article from the March 17 issue of the Washington Post entitled "Top Candidate Ends Bid for Chilean Presidency," and an editorial published in the New York Times for March 20, 1964, entitled "Storm Signals in Chile."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF SANTIAGO

At the 10th plenary session of the Inter-American Council of Commerce and Production, the businessmen of the Americas reaffirm their resolve to stimulate economic development, to accelerate the social progress of the peoples of the Americas and to achieve a rapid and effective improvement in the standard of living of the needy.

They proclaim also their desire to assume larger responsibilities and to participate more actively in public affairs. To that end, they will contribute fully their knowledge, experience, and spirit of enterprise for the purpose of promoting the economic integration of the hemisphere, expanding trade, attaining the lofty goals of the Alliance for Progress, and improving the education of youth.

They declare that the achievement of these goals will be facilitated by a coordinated economy, which assigns to government and to private enterprise their true and complementary roles. Every effort will be made to eliminate the unnecessary conflicts between private enterprise and government.

They maintain finally, that the economically strong nations must cooperate in the development of the economic weaker nations, with an understanding that the progress of underdeveloped countries depends upon their own efforts.

The businessmen of the Americas, mindful of the ideological war which confronts them in their respective countries, will redouble their efforts to carry out their own specific economic tasks, fulfill their obligations to society, promote national and international unity, strive to make more evident the fruits of democracy and liberty, and raise the material and spiritual level of all social groups.

STATEMENT BY SENATOR HUBERT H. HUMPHREY TO THE 10TH PLENARY ASSEMBLY OF BUSINESSMEN OF THE AMERICAS

I deeply regret that my duties as floor leader for the civil rights debate which has just opened in the U.S. Senate prevents my joining you on this occasion.

I am happy to send a message of greeting with my distinguished colleague, Senator JACOB K. JAVITS, of New York, who has done so much to strengthen the role of the private sector in achieving the goals of the Alliance for Progress.

We have learned during the past 3 years that the goals of political liberty, social progress, and economic development can be achieved only if bold government action is combined with an energetic private sector. The economic progress we seek will come only if the business and financial community display both initiative and vision. When initiative is combined with vision, there need be no conflict between the interests of private enterprise and the public interest. This conference, I am sure, will do much to deepen our appreciation of the importance of close cooperation between business and government in accomplishing the aims of the Alliance for Progress.

My congratulations and best wishes for a successful meeting.

[From the Washington Post, Mar. 17, 1964]

TOP CANDIDATE ENDS BID FOR CHILEAN PRESIDENCY

SANTIAGO, CHILE, March 16.—Julio Duran resigned tonight as the Government-backed presidential candidate in the wake of a surprise Communist victory for a congressional seat in Curicó Province.

Duran bowed to pressure by leaders of the pro-Western ruling coalition of President Jorge Alessandri who wanted a more appealing votegetter to head the Government's ticket in the September 4 presidential balloting. Alessandri cannot run again.

The sudden resignation temporarily left the coalition without a candidate, touched off a flurry of leadership meetings, and strengthened chances that Salvador Allende, Communist-Socialist candidate, would be elected president.

Allende is pledged to nationalize the multimillion-dollar American copper investments in Chile (Anaconda and Kennecott).

Duran, a Federal Senator, was the candidate of the Democratic front, the present ruling coalition of the Conservative, Liberal, and Radical Parties.

It was understood that he had pledged before yesterday's Curicó election that he would drop out if the Communist-Socialist candidate, Oscar Naranjo, won. There was speculation that Duran would be replaced by Orlando Sandoval, former Agriculture Minister and Ambassador to Belgium.

[From the New York Times, Mar. 20, 1964]

STORM SIGNALS IN CHILE

A brief news item from Santiago, Chile, is freighted with a potentially profund meaning for the immediate future of that country. This was an announcement of the resignation of the Government-backed, conservative candidate for the Presidential elections on September 4, Julio Durán. He quit after a leftist victory in a congressional election in Curicó Province last Sunday.

Apart from an extreme rightist, Jorge Prat, who has no party backing, the contest is now essentially between the Christian Democrat, Eduardo Frei, and Salvador Allende, a candidate of the Communist-Socialist leftwing coalition known as FRAP. The latter came within an ace of defeating the present President, Jorge Alessandri, in the 1958 elections.

Either Frei or Allende would bring drastic social and economic reforms, more statism, and a more independent, nationalistic foreign policy. Dr. Frei, however, is left of center rather than leftist, and he is much more democratic in our usage of the word than is his opponent. Should Dr. Allende get a plurality—a majority is most unlikely—Latin America would for the first time in its history be seeing a genuine leftwinger elected to national office by a strictly democratic process.

There is no doubt that Chile is traversing a national crisis. The form it seems to be taking is an effort of the excluded masses to enter the economic, political, and social mileau who make up the traditional ruling classes. Often a nation cannot make this transition without a revolution of the Mexican or Cuban type. The hope of a peaceful transformation in Chile lies in its deep-seated democratic traditions.

The United States is going ahead with new loans—$70 million in the past week. There are about a billion dollars of private U.S. investments in the copper, nitrate, and iron industries, which is a big stake. But the elimination of Senator Julio Durán from the presidential race gives Washington something new to worry about.

ADDRESS OF SENATOR JAVITS BEFORE THE 10TH PLENARY ASSEMBLY OF BUSINESSMEN OF THE AMERICAS, SANTIAGO, CHILE, MARCH 16, 1964

Mr. HUMPHREY. Mr. President, I invite the attention of the Senate to the

excellent speech which the Senator from New York [Mr. JAVITS] delivered at the conference in Santiago, on which he has just reported. The Senator from New York is one of the most authoritative voices in the Senate on the subject of U.S. international economic policy, and international trade. At the conference in Santiago, he brought his knowledge of trade to bear on the subject of Latin American trade problems. He discussed the development of incipient common markets in this hemisphere; and pointed out the immense potential for development of trade through a Latin American common market. I commend his speech to the attention of all, and ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE AGE OF THE GOOD PARTNER: A PROGRAM FOR THE AMERICAS

(Remarks of Senator JACOB K. JAVITS at the 10th Plenary Assembly of Businessmen of the Americas, sponsored by the Inter-American Council of Commerce and Production, in Santiago, Chile, Monday, March 16, 1964)

The questions that must be answered by the governments and responsible elements of the Western Hemisphere in the next few years are whether we are capable of understanding the social and political ferment which now pervades the hemisphere and whether we are ready to deal with this ferment by making the necessary and sustained adjustments to satisfy the just aspirations of its peoples. How can we—acting together—bring about economic and social change within a democratic framework? Not only the U.S. future relations to the hemisphere but the future of each nation of the hemisphere depends on the answers to these questions.

Accordingly, I propose that the policy of the good partner should succeed the policy of the good neighbor, in the relationships between the United States and the other American republics. To implement this policy, I suggest for your consideration an economic program for the Americas, consisting of two major parts: (1) A basic revision of the trade relations among the Latin American republics on the one hand, and between the Latin American Republics and the United States and Canada on the other hand, leading to a Latin American Common Market and a Western Hemisphere Free Trade Area; and (2) a new role for the private enterprise system in the development of the Americas—a new social direction, with broader responsibilities and commensurately broader opportunities for success.

We all know that in developing countries the political framework within which economics and society operate tends to determine the success of even the most auspicious efforts. I suggest, therefore, that the program which I propose needs to be espoused by the democratic, progressive and non-Communist parties of the American republics.

Great and fundamental changes are taking place in every part of the world which critically affect the future plans of the hemisphere. The nuclear stalemate between the United States and the Soviet Union has lessened the chances of war but increased competition between the two systems in trade, aid, and culture. Longstanding tensions existing between China and the U.S.S.R. over the leadership of the Communist movement have come out into the open for all to see and have considerably weakened the effectiveness of Communist parties everywhere. Nationalism, a desire for self-determination, is causing many nations now undergoing the process of economic development to seek their own direction outside the shadows of the two power blocs. Western Europe is fully recovered, the European Common Market is a reality and France under General de Gaulle has embarked on an effort to create a third force.

In the Western Hemisphere, the centuries-old lethargy towards social injustice, poverty, feudal land systems, hunger, and disease is giving way to an insistent demand for political and social reform and economic improvement.

The response of the inter-American system to this demand, although at first long delayed, has been by no means ineffective. Within the space of 4 short years, there has been brought into existence a new system of inter-American cooperation for economic and social development—the act of Bogotá, the Central American Common Market, the Latin American Free Trade Association, the Inter-American Development Bank, and the Alliance for Progress.

Despite criticisms which may be leveled against some aspects of its implementation, the Alliance is already achieving one of its fundamental objectives—to create an awareness throughout the hemisphere that comprehensive and well-planned social policies and reforms are essential to achieve accelerated economic development in a democratic framework. The new atmosphere created by the Alliance appears also to be exercising a major influence on the internal politics of a number of Latin American countries.

Another encouraging step was the establishment, at the second annual meeting of Ministers of the Inter-American Economic and Social Council last November, of an Inter-American Committee on the Alliance for Progress (CIAP) to coordinate and promote the multilateral implementation of the Alliance. The establishment of CIAP represents a development of historic importance to Latin America, similar to the OEEC, which played such an important role under the Marshall plan in the recovery and unification of Western Europe. Indeed, even today, as I speak here, the President of the United States and the Latin American diplomatic community are celebrating the installation of CIAP, and the third anniversary of President John F. Kennedy's first call for the Alliance for Progress at the White House in Washington, D.C.

The great unfulfilled tasks, however, do not permit a pause over what has been achieved. Gains, which have been made in Latin America in the formulation of development plans, in economic integration and in increasing the economic well-being of millions of people, will now have to be followed by further progress in education, health, industrial development, housing, and institutional reforms of all kinds.

The hemisphere must now turn its attention to the future and take the next steps necessary to give new impetus to the gains already made in its economic development.

First, we must accelerate the process of regional economic integration.

The Latin American Free Trade Association and the Central American Common Market are clear evidence that the idea of continentwide economic integration can become a reality in the foreseeable future. In its brief period of existence, LAFTA, which includes 82 percent of Latin America's population and 78 percent of its income, has closely adhered to its schedule of tariff reductions, resulting in a significant increase in intraregional trade: up 37 percent from 1961 to 1962. The Central American Common Market is much smaller than LAFTA, with a population of 12 million as compared to 180 million for LAFTA, and an estimated total GNP of $2.3 billion as compared with an estimated $55 billion for LAFTA. But during its as yet short life, the Central American Common Market has eliminated trade barriers on about half of the trade of member countries, standardized external tariffs on most commodities, launched a regional development bank, set up machinery for resolving disputes arising among its members, and just last month, established machinery for a Central American Monetary Union as a base for eventual monetary unification. As a result of the activities of the CACM the members' trade with each other has increased from 3 percent of their total trade in 1958 to 11 percent in 1962. The members still do well over 70 percent of their trade with Europe and the United States.

Undeniably, many problems remain before the broader aims of Latin American economic integration are fully realized. LAFTA faces important difficulties in negotiating further tariff concessions, in creating a common market in specific complementary industries within the region, in creating an adequate inland and ocean transportation system and in providing adequate financing for its foreign trade. The CACM, in turn, is faced by problems arising from the existing inequalities in the development levels of its member countries and their dependence on primary commodities for the bulk of their export earnings.

The resolution of these problems, in my view, can best be effected within the framework of a genuine Latin American common market, within which goods, persons, and capital can move more freely and which would comprise the nine countries of LAFTA, five-nation CACM as a unit, plus Venezuela, Bolivia, Panama, and certain of the Caribbean countries. With the emergence of a common external tariff and a phased, across-the-board removal of tariffs on intraregional trade, there would emerge in such an arrangement a mass market of 220 million with a combined annual GNP of between $70 and $80 billion, $18 billion in foreign trade, and $2.5 billion in gold and foreign exchange reserves. Such a common market with a unified commercial policy would greatly increase Latin America's leverage with the industrial countries of the West in the field of trade. It would also provide a powerful pull on private capital from the United States, Western Europe, and Japan which is essential for Latin America's rapid industrial development. It would permit the establishment of a rational regional transportation system, in coastal shipping as well as inland road and rail transportation. It could provide a great stimulus to economic growth through the strengthening of competition in the region, and the expansion of additional local manufacturing. Further diversification in production in domestic manufactures would help to reduce Latin America's dependence on the exportation of primary commodities.

The United States could provide a major impetus to the creation of a Latin American common market by offering to LAFTA and CACM a unilateral reduction in U.S. tariffs on simple manufactures and semimanufactures imported from Latin America in exchange for a speedup in the rate of the integration schedules of LAFTA and CACM, and effective safeguards for new foreign investment. The extension of unilateral tariff concessions to developing nations on this basis would be preferable to proposals now being advanced by developing nations which do not provide some reciprocity to the developed nations.

Once such a Latin American Common Market is a reality, the United States and Canada would have to establish a new relationship with it. Such a relationship could take the form of a Western Hemisphere free trade area limited to raw materials. Under this arrangement, the United States, Canada,

and the Latin American Common Market would reduce their trade restrictions—both tariffs and import quotas—on raw materials originating in the Western Hemisphere on a phased annual basis until such trade restrictions, say in 10 years, are at zero.

As the Latin American Common Market is more industrialized and is able to compete with the more efficient industries of Western Europe, Japan, and the United States, this limited Western Hemisphere free trade area could be expanded to cover manufactured products; and could develop further by negotiating arrangements with other regional trading groups, such as the European Economic Community. Its existence would also insure that the Latin American Common Market would be outward looking and competitive.

In 10 years' time, a common market area of 200 to 300 million people (larger even than our own U.S. common market of 50 States) could be created, justifying the establishment of highly efficient, large-scale industries in Latin America.

In proposing the creation of a Western Hemisphere free trade area on raw materials, I am not overlooking the fact that 55 percent of Latin America's exports to the United States already enter the United States duty free and that the forthcoming trade negotiations under the Trade Expansion Act of 1962 may bring additional benefits to Latin America.

For, while it is difficult to estimate with precision the amount of trade that would be generated by eliminating trade barriers on raw materials, a recent study conducted by the Inter-American Research Committee of the National Planning Association suggests that such a move could have a substantial impact on Latin American exports to the United States, which now total $3.4 billion. It was estimated that suspension of U.S. import restrictions on a selected category of Latin American raw materials would increase U.S. imports from Latin America by at least $850 million, and perhaps by as much as $1.7 billion.

Some will protest that such an arrangement would necessitate a departure by the United States from its traditional unconditional most-favored-nation policy. My answer is that GATT has already made a number of exceptions to this principle, notably in the case of the European Economic Community and the European Free Trade Area. I see no reason why GATT should object to a similar exception with respect to the countries of the Western Hemisphere. For the United States, it may be necessary to subordinate the value of continuing the practice of extending U.S. tariff concessions on a nondiscriminatory basis to all countries automatically, to perhaps the greater value of aiding the worldwide movement toward regional economic integration.

Nor am I unaware of the difficulties involved in creating such a Western Hemisphere Free Trade Area, especially in regard to such commodities as sugar, lead, and zinc. But with U.S. cooperation and hemispheric determination, I am confident these problems are not insoluble.

As we examine the future shape of our trade relations, there are problems which can and should be resolved now in our mutual interest.

The United States should utilize the forthcoming "Kennedy round" of trade negotiations to facilitate entry for Latin American exports—primary commodities as well as other products—to the European Common Market. There appears to be some disposition along this line by the EEC, notwithstanding its special relations with the associated African States. Also, together with other Americans, I am doing my utmost to minimize to the greatest extent possible the rigors of U.S. import quotas on such products as lead, zinc, and residual fuel oil. I also believe that the United States should support measures like the International Coffee Agreement, designed to stabilize primary commodity prices.

At the same time, all of us must recognize the dangers of inflation—in some places galloping inflation—which nullifies economic gains. The flight of capital and the grave imbalance of the international balance of payments represent major threats to countries subject to these inflationary forces. To deal with this threat every effort ought to be made to modernize antiquated fiscal systems and monetary policies and to organize capital markets and other institutions to mobilize untapped national savings for productive uses. In short, self-help and mutual cooperation must be the rule, even as we develop Western Hemisphere institutions along the lines which I am charting here.

All of this leads me to the second part of the economic proposal I am here advancing—the role of private enterprise in Latin America.

The Latin American nations must find means for improving the climate for private initiative, while at the same time providing for social justice. These ends are not in the least incompatible. But we must recognize that Latin America is trying to achieve in a decade what has taken a century in the United States and is even yet far from perfected there—the operation of private business in the public interest. What is needed is a new spirit both on the part of government and of private enterprise in the achievement of common goals of progress without sacrificing their own self-interest. In many Latin American countries, leadership in developing such a spirit has been demonstrated to a heartening degree.

Latin American development can be based on a strong foundation of successful private enterprise investment. It should be remembered that not only does some 70 percent of all Latin American economic activity originate in the private sector, but contrary to a widespread impression, 90 percent of this private sector is owned by Latin American investors themselves. A developing economic system so intimately tied to private ownership clearly cannot accelerate its forward movement in the face of the erosion of investor confidence—an erosion signalled by a substantial outflow of private Latin American capital over the past few years and the sharp reduction in net U.S. private investment. I am aware of the selective nature of the investment process and of certain bright spots in the picture. However, these positive currents are bucking a great outward tide caused by private decisions which range from expressions of indifference to acts of panic. To reverse the outward tide—and such a reversal is essential—the positive factors must be greatly augmented. Latin American governments can aid immeasurably in restoring investor confidence. The infusion of Western European private and public investment into these contrary streams can also be an important element in reversing the overall capital outflow and in accelerating the momentum of economic growth in Latin America.

The Atlantic Community Development Group for Latin America (ADELA), under the sponsorship originally of the NATO Parliamentarians' Conference and, in the United States, of myself and Senator HUBERT HUMPHREY, of Minnesota, was established in order to formulate a means for focusing free world economic strength—i.e., the force of private sector activity—on this problem.

The multinational, multienterprise private investment company now being established to implement the ADELA program envisages a revitalization of the private enterprise forces in Latin America by enlisting the partnership of North American, European, and Japanese private enterprise strength. In the first instance, this investment company will focus on expanding the sector of medium-sized and smaller enterprises in Latin America so that they may serve as the essential base for the larger ventures of national and regional economic development. The talents and the capital of many enterprises of many nations will go into partnership with the Latin American enterpriser, in order to supply him with that measure of financial resources and technical assistance which he needs to participate more fully in the success of the social-economic revolution which is intended to carry Latin America toward a new era of freedom.

The implementation of the ADELA program represents a unique experiment. It recognizes that the governments most directly involved in the Alliance—i.e., the governments of Latin America and the United States—cannot accomplish the job of Latin American economic development alone. It recognizes, above all, that even all of the governments of the free world together are not possessed of the combination of capital, skills, initiative, and knowledge needed for the successful economic development of Latin America and that the role of the private sector is indispensable.

In the ADELA project the private sector of the free world has the opportunity to give concrete evidence of a fact which it has too long claimed to be self-evident. It can show that inherent in the processes of the system of private enterprise, which has brought historically unparalleled wealth to large areas of this globe, are qualities of statesmanship and discipline which can give Latin America an opportunity to attain equality of economic status. Indeed, private enterprise can show that it has the moral qualities needed for its own survival, in those areas now threatened from the outside by a system which cannot abide individual initiative, which cannot tolerate private ownership of anything and which affords no person credit. Above all, the leaders of private enterprise can display a political awareness of the shape of the future. Thus, the successful realization of this private enterprise action program in the ADELA investment company can be a turning point in the history of Latin America.

In the ADELA project private enterprises are seeking to turn their capital, manpower and techniques to the creation of economic and social conditions which will assure the viability of the system upon which their own existence depends—not only today or tomorrow, but far into the future. If the peoples in this great Western Hemisphere can be shown that relative freedom from poverty can be achieved by means compatible with individual political freedom, they will decisively choose such means. This is the challenge which the private sector of our economies is uniquely fitted to meet.

I said earlier that the economic program I have outlined here should be espoused by the democratic, progressive and non-Communist parties of the American Republics. I believe the economic and social development of Latin America can be enormously forwarded through the work of political parties which possess the will to express a real evangelism for freedom and free institutions—an evangelism which can be communicated directed to the people in meaningful terms.

In short, the Western Hemisphere needs to develop a flaming morale conducive to values which freedom and private enterprise can foster. And this spirit can be created by an identification of the mutuality of interest in each country of all peoples in the

Western Hemisphere who are fighting for these values on the basis of democratic political organization, our common Judeo-Christian ethic and progressive economic principles.

One way to do this has been suggested by your compatriot and scholar, Felipe Herrera, President of the Inter-American Bank, who has proposed a Latin American assembly with functional participation by capital, labor, and the universities, with a cooperative working arrangement with delegates of the U.S. Congress. Call it, if you will, the Parliament of the Hemisphere.

Whatever steps we take to develop greater hemispheric unity would advance in our time the dream of Simon Bolivar when he envisioned consolidating Latin America into a single nation, united by pacts into a single bond.

"The time has now arrived," said Bolivar 140 years ago, "when the interests and associations which unite the American Republics should secure a firm foundation."

It is a fitting note on which to sum up and to dedicate ourselves to this high purpose—as valid today as it was then—and at least as urgent.

EDUCATION IN THE WAR ON POVERTY

Mr. JAVITS. Mr. President, if the war on poverty is to achieve any lasting degree of success, it should provide the capability of striking at the hard roots of this problem. Adequate and comprehensive education is one of the essentials, but all of the available data on this aspect of the poverty problem show that our schools are not doing the job that is needed. The harsh fact is that many children from disadvantaged homes are not getting the needed education. Many fail in the first grades and continue to fail until they are old enough to drop out, where they join the ranks of the unemployed and delinquent. Moreover, such failure brings with it as a consequence serious deterioration in the standing and prestige of the education system. Yet only peripheral assistance to the schools is available in the present Economic Opportunity Act. Effective remedies can come only from a program of Federal aid to elementary and secondary school education, for only with qualified schools and adequate teaching aids can we back up the belief that many children from disadvantaged homes can perform what is required of them. Given these favorable conditions, there is sound reason to believe that schools can teach effectively disadvantaged children.

Two significant articles in the press emphasize the importance of attacking the poverty problems at this level. I ask unanimous consent to have printed in the RECORD an article written by Fred M. Hechinger, entitled "Localities With Own Improvement Plans Seen Getting Priority," which was published in the New York Times, March 22; and the feature article written by U.S. Commissioner of Education, Francis Keppel, entitled "Command Posts in New War: Slum Schools Could Be Logical Nucleus of Attack on Poverty If They Were Lighthouses and Not Fortresses," which was published in the Washington Post, March 22.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times, Mar. 22, 1964]

FEDERAL SCHOOL AID: LOCALITIES WITH OWN IMPROVEMENT PLANS SEEN GETTING PRIORITY

(By Fred M. Hechinger)

President Johnson's $1 billion program of war against poverty assigns a key role to education. It is a role which has been in the talking stage since before the late President Kennedy's inauguration, but has assumed new importance as a result of the pressures by civil rights leaders in the northern cities where the battle for better educational opportunities in the slum schools has become education's first priority.

Although the educational provisions of the Johnson proposals remain vague and, in the President's own word, "flexible," certain broad outlines emerge. Most important among the hints of the future is the President's stress on the importance of local ideas and efforts and the need for new, rather than traditional, approaches.

This puts considerable responsibility on the shoulders of the national, and especially the urban, educational leadership. It will probably mean that those local school superintendents and college presidents who come up with their own plans into which Federal dollars can fit, without danger of waste, may get ahead of the parade. In other words, there is to be an element of national competition in the program, probably because the President and his advisers—particularly U.S. Commissioner of Education Francis Keppel—distrust the routine approach which has been so dismal a failure in the big city slums.

Fortunately, American school leaders have a number of examples of past proposals and actions, here and elsewhere, which may help them on their way.

TASK FORCE REPORT

The broadest hint was contained in the original task force report drawn up at the request of President Kennedy by a group of distinguished educators, including Mr. Keppel, then dean of Harvard's Graduate School of Education. It called for a special fund of Federal aid for distressed areas, particularly the city slums. Such money was seen as an essential ingredient for any large-scale experimentation aimed at providing for slum children the kind of education which substitutes many of the items which are offered to middle-class children at home.

In New York City the original higher horizons program achieved something of this nature. It offered children from underprivileged homes not only improved instruction in school, with greater personal attention by good teachers, but also arranged cultural opportunities, such as visits to concerts, operas, and theaters, for them. Linked with a similar program in the high schools, the experiment was at first startlingly successful. It gave youngsters a meaningful lease on life, with all the aspirations of more economically fortunate children.

One of the pitfalls of such a program is that, once it is proved successful, it must be applied to greater numbers of children. When this happens—as it did in New York—the school system must spread the funds and the special staffs too thin. In the end, as a result of watering down, the original gains are lost and only the label and the publicity value remain.

This is why, with the success of specific pilot programs already shown, substantial and continuing Federal funds are of vital importance.

In a completely different area, the President spoke of the need for programs which combine job training and education. This goes to the heart of the reason why so many past attempts at preventing school dropouts have failed. They often have, in the words of the San Francisco Superintendent of Schools Harold Spears, merely brought youngsters back into school without sufficient thought about the kind of program of education that is relevant to their needs.

THE SAME THINGS

Even so-called remedial programs tend to do the same things after school—often with the same teachers—which failed to do any good during school hours.

Here again educators may look to precedents which have been given too little attention in the past because they departed from the organizational routine. They should not, of course, be blindly imitated, where new situations call for new ideas, but they ought to offer some guidelines.

For example, cooperative education has been applied on the college level, and in some cities (including New York) even in high school, with marked success. Under such programs, pupils study and work, and their work may range from simple jobs in industry or business to highly complicated and advanced scientific occupations.

Northeastern University, in Boston, one of the leaders in the cooperative education movement, has opened up such highly professional fields as graduate mathematics studies to the cooperative approach.

BUILT IN

In many European countries, and most prominently in the Soviet Union, afterwork continuation schools have been built into the regular scheme of public education.

The Scandinavian countries have long established a tradition of the so-called folk high schools and people's colleges—residential campuses on which the children of workers and farmers combine vocational study with liberal education.

One important hint, at least by strong implication, given by President Johnson to American educators is that they must free their profession from narrow, certification-minded confinement.

Instead of pretending that traditionally trained teachers can do the new and unconventional job alone, they will have to welcome volunteers with a wide variety of backgrounds. One of the important byproducts of such a partnership might be the evolution of new approaches to professional teacher training in the future.

Finally, there are already blueprints in some communities which, with the impetus of Federal aid, could be quickly translated into action programs. New York's Superintendent of Schools Dr. Calvin E. Gross has been talking about a saturation program for the slum schools. There is a good chance that any city which, with the Johnson program in the offing, gets its own show on the road, might not only be eligible for funds more quickly but could become a proving ground of new ideas for the national effort.

[From the Washington (D.C.) Post, Mar. 22, 1964]

COMMAND POSTS IN NEW WAR: SLUM SCHOOLS COULD BE LOGICAL NUCLEUS OF ATTACK ON POVERTY IF THEY WERE LIGHTHOUSES AND NOT FORTRESSES

(By Francis Keppel)

America's nearest foreign country is a land whose people speak a language much like our own, yet different in tone and style; a land which borders on our prosperous and thriving 20th century society, yet lives apart in a different climate and culture and time zone; a land which requires no passports or visas to enter, yet is seldom seen by most Americans. This is the foreign country no

farther distant than our nearest neighborhood slum.

Here in the slums, a focal point in the coming war on poverty, there are potential command posts where battles could be waged and won. These are the public schools. They are central to the community action program called for by President Johnson last week in his message to Congress on poverty. In mounting an effective attack on poverty, the improvement of these schools, of our education of the poor, is essential.

At every turn in our technological age, the statisticians show us that unemployment grows wherever educational levels are low, that incomes rise wherever educational achievement is high, that poverty and lack of education are always linked.

THEY DESERVE THE BEST

The role of education in the slums has often been overlooked in the past. That is no longer true. There is perhaps no other institution in the country of which more is expected and where so much needs to be accomplished. But before the schools of the slums can meet these rising expectations, before they can serve effectively in the attack on poverty, some thoroughgoing alterations are required.

These call for bold approaches not merely by the educational community but by the community at large—a new public awareness of the problems and difficulties in these schools and a determination to resolve them. The first of these problems is priority—or, rather, a lack of priority—for the schools of the slums.

Usually these schools are substandard, and substandard schools are precisely the wrong schools for the children of poverty. These students, deprived in every other aspect of their lives, require more, not less, of educational opportunity if they are to succeed; the most qualified, not the least qualified, of teachers; the least crowded, not the most crowded, of classrooms; the most imaginative, not the least imaginative, of educational efforts.

For too many years, however, education in the slums has been directed to maintenance efforts, to the maintenance of schools which exist in form but not in substance—where teachers seem to teach and children seem to attend, but where the link between teaching and learning is frail and tenuous.

UNWORKABLE METHODS

The second problem is that we have failed to make the indispensable extra effort to reach and teach these children. Far too often, they are regarded as not merely difficult to teach, but as virtually unteachable.

There are difficulties, to be sure. Usually they come to school from families of low educational attainment; their homes lack books and other incentives to learning; they lack the middle-class values and cultural endowments of their teachers.

The overriding difficulty, however, is the persistence in teaching methods that have not worked and will not work. A vast number of these children will reject traditional texts and curriculums even with good teachers and good buildings.

As a basic change, we need new primers and readers for them which—at the least—recognize their existence in our society. When textbooks reflect only white middle-class life, complete with commodious split-level homes, how can we expect to reach poor white, Negro or Puerto Rican children? Instead, we need textbooks written in terms of their own environments, their own lives and aspirations.

Above all, we need teachers who are trained and gifted in teaching these children. All too frequently, teaching our deprived children has seemed a personal deprivation to the teachers sent to their classrooms.

Unfamiliar with the home and community life of their students, they are often frustrated by youngsters who are troublesome as well as troubled. During the school dropout campaign last summer, a few of these teachers made the startling suggestion that the majority of students would best be served if those who wanted to drop out of school were permitted or even encouraged to do so.

The successful teacher of these children needs warmth and insight. These qualities must be in her at the outset. But they will be lost or blunted if those in charge of our schools fail to recognize and stimulate these qualities. We must bring to these teachers a new prestige and status within their profession and within the community.

The third problem that confounds our schools of the slums is their isolation from the communities they are intended to serve. This is the gravest weakness of all.

These are the schools where the iron gates slam shut at 3:30 when classes are over for the day. The bolts are drawn; the lights are turned off; the fortress is secure; the school is protected from the neighborhood.

Teachers come into these fortress schools from the outside world to teach, and, when school is over, they leave again for the outside world. Some of these schools even refuse to list their telephone numbers in order to avoid the distraction of parents calling.

Yet it is in these schools, as nowhere else in the slums, that we could create not a fortress amid the poor but a true command post against poverty.

This exposes the fundamental weakness not merely in education but in all the social agencies which must be corrected if there is to be an effective community attack on poverty. Today, such public agents as the teacher, the social worker, the child guidance counselor, and the health officer all occupy their special compartments and assert their special prerogatives. The private agencies also keep their distance and pursue their individual courses.

THE SCHOOL A FOCUS

With this divisiveness, there is little prospect of dealing with poverty effectively. The problem calls for an unparalleled alliance of community resources.

The agents of education and social welfare must learn to work together. Moreover, they must seek to develop widespread citizen participation, perhaps by generating community councils on poverty. The slum school could provide a focus for action, a center for community service.

Its first effort must be to provide the best of education for its young students. From this beginning, it could move outward into a broad spectrum of service: providing night school in adult education, remedial reading and other remedial education, serving as a center for after-school study, for classes of preschool children, for education and employment counseling, for health and rehabilitation, and other community programs.

With the community's effort behind it, the bleak fortress school of today could become the lighthouse school of tomorrow, bringing to our neighborhoods of poverty a new beacon of possibility, promise, and hope.

THE PLIGHT OF THE SENECA INDIANS

Mr. JAVITS. Mr. President, I invite the attention of Senators to an editorial published in the New York Times, entitled "Our Own DP's—The Senecas." Both the Senator from New York [Mr. KEATING] and I are interested in the plight of the Seneca Nation in respect to the condemnation of the Kinzua Dam area, and their removal from tribal lands on which they have lived under a longstanding treaty made with George Washington, which is now taking effect.

Mr. President, I ask unanimous consent that this editorial may be printed the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times, Mar. 22, 1964]

OUR OWN DP'S—THE SENECAS

The Senate Interior Committee has drastically reduced the amount in a House bill to compensate the Seneca Indians for construction of the Allegheny River dam and reservior, which will flood their reservation in western New York. Thereby hangs a sorry tale.

Under the oldest treaty of the United States, still technically in force, our Government in 1794 promised never to claim the reservation or "to disturb the Seneka Nation * * * in the free use and enjoyment thereof." The treaty, backed by a promise that George Washington made personally, has been broken. That is now water over the dam; it is too late to argue the merits or morality of the Army Corps of Engineers' project. The eviction of the tribe has been scheduled for October 1.

But it is not too late to compensate the Senecas so that they can begin new lives elsewhere as American displaced persons. A House bill provided a rehabilitation fund of $17 million for resettlement of the tribe; the Senate committee's proposal of $9 million is, by comparison, parsimonious. The relocation funds would be used for housing, industrial and educational programs. The well-being of about 130 families and nearly 700 persons depends on the generosity—and sense of decency—of the Congress.

The Pennsylvania Railroad has been well paid for a right-of-way in this area. Will the Senecas, mere humans, fare as well? If they do not, the Federal Government will be committing double perfidy.

ALLEGATIONS OF RACIAL BIAS—RECOMMENDATIONS SUBMITTED TO HOUSING AUTHORITY OF PORTLAND, OREG.

Mr. MORSE. Mr. President, on December 19, 1963, I commented in the Senate on the allegations of racial bias that had been directed against the housing authority of Portland, Oreg. Previously I had requested the Commissioner of Public Housing Administration to supply a report on this problem. Commissioner McGuire wrote to me under date of February 20, submitting the final report of that agency. Enclosed with Mrs. McGuire's report was a letter of February 1, 1964, addressed to the housing authority of Portland, Oreg., setting forth the details of the review by the Public Housing Administration as well as its findings.

In the concluding paragraph, the letter of February 20 states:

> We know you were informed, also, that the Housing Authority has invited the Greater Portland Council of Churches to work with it in encouraging a greater degree and a better balance of voluntary racial integration in Portland's public housing. We are hopeful that all groups in the community will participate in constructive effort toward this goal.

I have received a letter from Mr. Robert H. Bonthius, chairman, Christian Social Concerns Commission, Greater Portland Council of Churches, dated

March 10, 1964, commenting on the material inserted in the RECORD by me on December 19. I have also received a letter, dated March 10, 1964, from the Citizens League for Equal Opportunity, signed by Mrs. William S. McLennan, executive secretary, commenting on the December 19 CONGRESSIONAL RECORD insertions. I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE GREATER PORTLAND
COUNCIL OF CHURCHES,
Portland, Oreg., March 10, 1964.

Hon. WAYNE MORSE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORSE: Our attention has been drawn to the CONGRESSIONAL RECORD of December 19 in which there appears a letter from the Housing Authority of Portland suggesting that it has been adequately investigated, and that it is working well with the Greater Portland Council of Churches. We are writing to provide a fuller picture in the hope that this letter may be made a part of the CONGRESSIONAL RECORD to correct the impression made by the December 19 material inserted there.

The issues with which the Greater Portland Council of Churches, and other groups concerned about HAP policies and practices, are concerned have to do with de facto segregation not discrimination. Our council has studied both sides of the problem for 2 years now, and submitted the results of its investigation to the mayor's intergroup relations commission on January 15, 1964. We have supplied your office with a copy of this report, and are now sending you under separate cover documents which support the finding of the report.

In summary, our investigation of the Housing Authority of Portland shows the following:

1. That the result of HAP policies is increasing de facto segregation in public housing projects in Portland.

2. That public housing opportunities have not been adequately publicized with the result that the public in general, and nonwhites in particular, have not ben properly notified of its availability.

3. That the Housing Authority of Portland has put forth every effort to construct housing projects that could only be occupied, at least eventually, by Negroes only, and located in one of the least desirable areas of the city.

4. That, while critics of HAP have not publicly attacked the motives of HAP commissioners or executives, HAP officials have made many public and personal attacks upon those who are striving for reform in public housing.

5. That HAP has admitted manipulating the list of prospective HAP tenants.

6. That HAP has repeatedly misinformed our organization, the public, public officials, and Government investigators.

The Greater Portland Council of Churches is concerned purely with reform in public policy and practice which adversely affects the community. Since we made our report to the mayor's commission on intergroup relations on January 15, that commission has come forth (February 19) with 10 changes it believes are needed in HAP procedures. We regard these 10 changes as confirming our findings, and as needed first steps in HAP reform. We hope that the Housing Authority will accept them and thus improve its image and its role as a public servant.

Sincerely yours,

ROBERT H. BONTHIUS,
Chairman, Christian Social Concerns Commission.

PORTLAND, OREG.,
March 10, 1964.

Senator WAYNE MORSE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR MORSE: Our group, comprised of persons representative of all the civil rights and race relations organizations in Portland, has noted in the CONGRESSIONAL RECORD correspondence and newspaper clippings which suggest that the Housing Authority of Portland has been cleared of charges of racial bias.

The Housing Authority has indeed been investigated by a number of bodies and none has yet found them guilty of any overt act of discrimination. The record should show, however, that none of the race relations groups in Oregon has ever charged the Housing Authority with acts of racial discrimination.

We have charged that HAP maintains racially segregated public housing in Portland and that it has failed and refused to do anything to correct this racial imbalance. Many of us have finally concluded that some of the commissioners and staff have evidenced a lack of good will in responding to valid criticism engendered by public scrutiny of their operations.

In a city which is less than 4 percent nonwhite, HAP has twice attempted to build new public housing projects in the heart of our small but highly concentrated ghetto. Both were to be admittedly segregated projects; both were to be named for the deceased wife of a local Negro leader. Suggestions for ameliorating the racial imbalance in existing projects have either been publicly ridiculed or termed, erroneously, "illegal" or "impossible."

Despite every responsible sociological survey to the contrary, HAP proclaims that Negroes want to live together and persists in excusing the segregated pattern of public housing in Portland as "self-segregation." Organization after organization has tried to work with HAP only to have its face slapped in public. A HAP commissioner has publicly belittled the elected officers of our civil rights organizations as "so-called leaders." At the February HAP meeting a commissioner called the chairman of the Christian Social Concerns Commission of the Greater Portland Council of Churches a "damned liar" for having presented the council's statement on public housing to the Portland Commission on Intergroup Relations. Only last week the mayor of Portland addressed a letter to the chairman of the Housing Authority of Portland criticizing her threat to remove that part of HAP funds deposited with the First National Bank of Portland because an official of that bank had been critical of HAP policy.

Said Mayor Terry D. Schrunk in part: "you have no right to make those decisions based upon vindictiveness or as punishment for someone who might disagree with you * * *. Every citizen of this community has a perfect right to be critical of the housing authority, city government, or me as mayor. I consider it poor public policy for any branch of government to the vindictive or attempt to intimidate those who might disagree with us or be critical of our policies or action."

Without laboring further these examples of tactlessness and poor citizenship on the part of the Housing Authority of Portland, I should like to emphasize again that segregation in public housing is the problem we are faced with in Portland. Investigations into racial discrimination completely miss the point. Public funds are here being used to support a segregated public housing pattern—in a city with a very small Negro population and the sociological possibility of integrated public housing. Although this public housing pattern may not be the result of an overt attempt to discriminate, its perpetuation is a gross misuse of the taxpayers' money. The housing authority commissioners should be obliged by virtue of their office to respond to this unfortunate circumstance with constructive good will and genuine efforts for improvement, and not with evasion and name calling.

We appreciate your continued concern with this matter, and hope that our mutual efforts will eventually result in better public administration of public housing in Portland and elsewhere.

Sincerely,

CITIZENS LEAGUE FOR EQUAL OPPORTUNITY,
JANET MCLENNAN
Mrs. Wm. S. McLennan,
Executive Secretary.

Mr. MORSE. Mr. President, in addition, I have received a letter from the chairman of the Mayor's Commission of Intergroup Relations of the City of Portland. The commission recently completed a set of recommendations which it submitted to the Housing Authority of Portland for consideration. The recommendations were enclosed with the letter. The letter states in part:

It has been our experience in the past, and records of other organization's dealings with the Housing Authority would indicate, that our recommendations may be passed down to the West Coast Regional Office of the Housing Administration and may even wind up on the national level in Washington, D.C. All this, of course, is very time consuming.

We would appreciate your interest in this matter, Senator, to advise us as to legality of the enclosed proposal as they may or may not affect Federal regulations pertaining to the jurisdiction of the local authority. In other words, is there anything in our proposal which from the Federal point of view would prohibit the local authority to comply with our recommendations.

I have submitted to Commissioner McGuire the recommendations enclosed with the letter and have asked the Commissioner to make a study of the recommendations proposed, and to prepare a reply to the question as to whether or not there is any conflict, from the standpoint of the Federal Government, which would prohibit the local Housing Authority of Portland from complying with the recommendations.

I ask unanimous consent that the commission's letter, my letter to Mrs. Mcguire, and enclosures may be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PUBLIC HOUSING ADMINISTRATION,
HOUSING AND HOME FINANCE AGENCY,
Washington, D.C., February 1, 1964.

HOUSING AUTHORITY OF PORTLAND, OREG.,
Portland, Oreg.

GENTLEMEN: As you know, in response to a request from Senator WAYNE MORSE, we recently made a further review of the tenant selection practices of your Housing Authority, particularly in connection with the Northwest Tower low-rent housing project for the elderly. We are now able to advise that we found no evidence of any discriminatory action or practice by the Housing Authority.

Our review disclosed the following:

The project known as Northwest Tower (project No. ORE-2-4) consists of a 150-unit tower structure containing 75 one-bedroom and 75 no-bedroom units designed for occupancy by the elderly, and a 30-unit three-story structure containing 27 two-bedroom

units and 3 three-bedroom units for family occupancy.

The Housing Authority maintains lists of applicants in chronological order of receipt of applications, allowing applicants freedom of choice of project to which they wish to be assigned. Separate lists are maintained by unit size; and in 1959 when the Housing Authority began to accept applications for the tower portion of Northwest Tower, it further refined its list for one-bedroom units, since occupancy of the tower was restricted to the elderly.

The order of priority for assignments to units in the tower was on the basis of date the application was made, including applications made by mail. The practice of accepting applications by mail was instituted at the request of aged applicants due to their infirmities, problem of transportation and remote location of the central office of the Housing Authority. Although, in general, further followup was necessary by mail, phone, or personal interview, the date of the application for purposes of priority was determined by the date the application was made by mail. Twenty-five percent of the applications were made by mail. By September 3, 1963, the first 150 eligible elderly applicants had been notified that they had been assigned a unit. Two of these families were Negro. They subsequently rejected the units offered to them.

Without knowing the nature of the complaints received by Senator MORSE, but in view of a complaint made to us of the absence of Negroes among the first 150 tenants for the tower, we ascertained also that the elderly Negro population in Portland constitutes less than 1 percent of the total elderly population. We believe this fact is pertinent because, as stated above, the tower is for the elderly.

We learned that your form of tenant application provides a space for designation of the race of the applicant, but were advised that this is solely to accommodate the PHA's reporting requirements and has no significance in the assignment of dwelling units. As you know, the PHA does require local housing authorities to supply breakdowns as to race in reporting active applications and occupancy during the period of initial occupancy of each project and also in other reporting of occupancy, but does not prescribe the means of obtaining or recording such information. The racial information required by the PHA is solely for the purpose of assisting it and local authorities to ascertain whether the needs of the community are being met and whether there is compliance with equal opportunity. Our review of the history of the development of the application list and the assignment of units for the tower revealed no instance of placement on the list or assignment to a unit on the basis of information as to race.

Although Senator MORSE expressed interest particularly in the housing for the elderly, we reviewed also the assignment of units in the three-story structure of the Northwest Tower project, and found no action taken with respect to any of those units on the basis of race. Also, we were advised that since this structure contains mostly two-bedroom units, and since most of the eligible applicants for two-bedroom units had stated a preference for projects other than Northwest Tower, the Housing Authority had difficulty obtaining sufficient applicants to fill this structure before September 30, 1963, the date of the scheduled end of the "initial operating period."

In view of a complaint made to us to the effect that availability of Northwest Tower was made known to the Negro leadership for the first time in 1961 at an Urban League meeting, we also obtained specific information as to the publicity given this project. The detailed list supplied to us, stating numerous items of publicity (including newspaper articles, speeches, public meetings, radio and television programs, and widely distributed reports) shows that the general public was repeatedly informed since 1959 of the Housing Authority's plans, actions and programs in relation to its program generally and plans for the elderly. It shows also that in some instances the Negro community was directly informed through the Urban League. For example, it shows that on October 8, 1959, Mr. Gene Rossman, executive director of the Housing Authority, made a speech at the North Area Neighborhood Council covering the results of the citywide survey of housing needs of the elderly and the tentative plans for housing for the elderly, and that the meeting was attended by a key staff official of the local Urban League. As another example, it shows that on April 6, 1960, 2,000 copies of an annual report, with special reference to the Housing Authority's development program, were circulated throughout Portland, copies going to social agencies including the Urban League.

We propose to send a copy of this letter to Senator MORSE, but shall withhold doing so for a period of 1 week from date so that you may, if you wish, comment to us on the foregoing.

Sincerely yours,

MARIE C. MCGUIRE,
Commissioner.

U.S. SENATE,
Washington, D.C., March 19, 1964.

MARIE C. MCGUIRE,
Commissioner, Public Housing Administration, Washington, D.C.

DEAR COMMISSIONER MCGUIRE: This will acknowledge, with thanks, your letter of February 20, 1964, enclosing a report of February 1, 1964, addressed to the Housing Authority of Portland, Oreg. I note that you have received no comment from the Housing Authority of Portland upon the details of your review and findings of the tenant selection practices of that agency.

Enclosed for your consideration is a letter from the chairman of the Mayor's Commission of Intergroup Relations of the City of Portland, together with the administrative recommendations submitted to the Housing Authority of Portland. I would appreciate your making a study of the recommendations proposed. As soon as possible, would you kindly give me the benefit of your view as to whether or not these recommendations would conflict with the rules and regulations of the Public Housing Administration in such a manner as to prevent the Housing Authority of Portland from complying with the recommendations?

Sincerely yours,

WAYNE MORSE.

PUBLIC HOUSING ADMINISTRATION,
HOUSING AND HOME FINANCE AGENCY,
Washington, D.C., February 20, 1964.

Hon. WAYNE MORSE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORSE: As we previously advised you, in response to your request we have been reviewing further the tenant selection practices of the Housing Authority of Portland, Oreg., in connection with the Northwest Tower low-rent housing project for the elderly. The review has been completed, and we are able to report that we found no evidence of any discriminatory action or practice on the part of the Housing Authority.

Details of our review and findings were stated in a letter dated February 1, 1964, to the Housing Authority. A copy of this letter is enclosed. We received no comment from the Housing Authorty in response to the last paragraph of the letter.

From your statement in the Senate on December 19, 1963, we know you were informed of the ruling of the Oregon State Labor Commissioner clearing the housing authority of charges of discrimination filed by Jimmie Proctor. We know you were informed also that the housing authority has invited the Greater Portland Council of Churches to work with it in encouraging a greater degree and a better balance of voluntary racial integration in Portland's public housing. We are hopeful that all groups in the community will participate in constructive effort toward this goal.

Sincerely yours,

MARIE C. MCGUIRE,
Commissioner.

PORTLAND, OREG., *March 9, 1964.*

U.S. Senator WAYNE MORSE,
U.S. Court House,
Portland, Oreg.

DEAR SENATOR MORSE: The mayor's Commission of Intergroup Relations of the city of Portland, of which I am chairman, has recently completed a set of administrative recommendations for the Housing Authority of Portland to consider. These recommendations were based on reports submitted to the Intergroup Relations Commission by such organizations as the Greater Portland Council of Churches, Urban League, NAACP, Citizens League for Equal Opportunity, as well as a statement submitted to us by the Housing Authority of Portland itself. The reason for the study, of course, was that many organizations in Portland felt that de facto segregation exists in public housing, and further, that the administrative practices presently utilized by the local housing authority has created racial tensions.

A copy of the enclosed report was forwarded to the chairman of the Portland Housing Commission with a request that either a formal or informal meeting be arranged by that commission in order that the various recommended points be discussed.

It has been our experience in the past, and records of other organizations dealings with the housing authority would indicate, that our recommendations may be passed down to the west coast regional office of the Housing Administration and may even wind up on the national level in Washington, D.C. All this, of course, is very time consuming.

We would appreciate your interest in this matter, Senator, to advise us as to legality of the enclosed proposal as they may or may not affect Federal regulations pertaining to the jurisdiction of the local authority. In other words, is there anything in our proposal which from the Federal point of view would prohibit the local authority to comply with our recommendations.

Time, of course, is of the essence in this matter, Senator. We realize your very busy schedule, but nevertheless, many of us have now worked months on this matter and are most anxiously looking forward to a solution.

My thanks in advance to you for your assistance.

Sincerely yours,

FRED M. ROSENBAUM,
Chairman, Intergroup Relations Commission.

INTER-GROUP RELATIONS COMMISSION, COMMITTEE REPORT ON PORTLAND HOUSING AUTHORITY, FEBRUARY 11, 1964

On January 15, 1964, a committee consisting of Dr. Unthank, Dr. Brown, Mr. Holmes, Dr. Gustafson, and Dr. Bursch was appointed by Chairman Rosenbaum to evaluate reports and documents received by the Inter-Group Relations Commission relative to practices and policies of the Portland Housing Authority. After individual review of documents, the committee, with Chairman

Rosenbaum, met on February 10, 1964, for discussion and adoption of specific recommendations. Dr. Brown, being out of town, was unable to take part in the February 10 meeting. On behalf of the committee, I submit the following conclusions and recommendations for your examination and possible adoption:

The Housing Authority of Portland has been the focal point of public controversy for some time. In the opinion of your committee, the central aspect of controversy seems to be the fact that present policies of tenant selection and placement have resulted in racially concentrated projects. Other critical phases of HAP practice and policy which have produced controversy and tension center around location of projects in areas of racial concentration, and around communication patterns between HAP and interested community leaders and agencies.

It has not been established that the HAP believes in or works for the segregation of races. On the contrary, various official investigations have produced only negative results. It has been established, however, that tensions rising from the phenomenon of racial concentration in public housing have been aggravated by certain practices of the HAP, and by certain statements from members and staff of HAP. These practices, in particular, make it difficult to disprove charges of discrimination or discriminatory intent. While the record, as it now stands, shows no instances of clearly established discriminatory practice, the situation is tension producing and serious—demanding corrective action. It is not the responsibility of the Inter-Group Relations Commission to try, or even to indict the HAP. We propose to enter the fray only in an attempt to ameliorate a regrettable situation.

The Inter-Group Relations Commission is charged by city ordinance with responsibility for making recommendations calculated to reduce intergroup tensions. Pursuant to that authority, your committee recommends a finding that certain practices and policies of the Housing Authority of Portland are, in fact, producing intergroup tensions in Portland, and we further recommend the adoption of the following suggestions in the hope and expectation that acceptance of the suggestions by the HAP will reduce present tension levels.

1. All applications should be made on forms provided by the HAP, and should be acepted only when presented in person by the applicant or an authorized representative.

2. Each application form for housing should be stamped with time and date, and upon acceptance for the waiting list should be assigned a serial number in sequence.

3. The person presenting an application for housing should be provided with a receipt showing the time and date of acceptance for the waiting list, and the serial number of the application.

4. All transactions relative to an application on the waiting list should be stamped with time and date, and should carry an indication of which employee processed the transaction.

5. When a vacancy occurs, it should be classified appropriately, and proffers should be made in strict order of seniority among those eligible.

6. The HAP should regularly publish, by serial number, and in some public place, the current waiting list.

7. When a proffer is made, the applicant should be given 3 days in which to respond, and must either accept, reject without stating reasons, or reject with statement of reasons.

8. When an applicant rejects a proffer without stating a reason, or when the HAP finds the statement of reasons unsatisfactory, the application should be endorsed with a new serial number placing it at the bottom of the waiting list.

9. When the HAP finds the statement of reasons satisfactory, the application should be passed over without loss of seniority, to await the next vacancy for which the applicant is eligible.

10. In considering statements of reasons, desire on the part of an applicant to maintain a segregated pattern of personal housing should not be accepted by the HAP as "satisfactory."

11. The HAP should establish and maintain an up-to-date roster of leaders of interested community agencies and organizations. Minutes and notices of meetings should be sent to the names on this roster, and the HAP should periodically reaffirm its interest in and desire for, the advice and counsel of such community leaders on matters of mutual concern.

12. When special purpose projects are constructed or acquired, a special effort should be made by HAP to give wide publicity to the limited nature of the eligibility requirements.

The foregoing report was approved by the Commission on Inter-Group Relations at its February 19, 1964, meeting.

Mr. MORSE. Mr. President, in my remarks on December 19, 1963, I stated that I was "glad that the investigation has cleared the Portland Housing Authority, and I am glad now to make it a matter of official record." The conclusions of the Intergroup Relations Commission points out that the commission is making recommendations "calculated to reduce intergroup tensions." The commission recommends a finding that certain practices and policies of the housing authority are, in fact, producing intergroup tensions in Portland, and that the tensions have been aggravated by practices of the Housing Authority of Portland. I would join in the hope of the Intergroup Relations Commission that acceptance by the Housing Authority of Portland of the suggestions will reduce the present tension levels. For that reason, in my letter to Commissioner McGuire I have asked that she complete her study on the recommendations as soon as possible in order that this matter may be resolved insofar as the responsibility of the Federal Government is concerned.

Mr. HILL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 95 Leg.]

Aiken	Douglas	Long, Mo.
Allott	Ellender	Long, La.
Bartlett	Ervin	Magnuson
Bayh	Fong	Mansfield
Beall	Fulbright	McCarthy
Bennett	Goldwater	McClellan
Bible	Gruening	McGee
Boggs	Hart	McGovern
Brewster	Hartke	McIntyre
Burdick	Hayden	McNamara
Byrd, Va.	Hickenlooper	Metcalf
Byrd, W. Va.	Hill	Monroney
Cannon	Holland	Morse
Carlson	Hruska	Morton
Case	Humphrey	Mundt
Church	Inouye	Nelson
Clark	Jackson	Neuberger
Cooper	Javits	Pell
Cotton	Johnston	Prouty
Curtis	Jordan, N.C.	Proxmire
Dirksen	Jordan, Idaho	Ribicoff
Dodd	Keating	Robertson
Dominick	Lausche	Russell
Saltonstall	Symington	Williams, Del.
Scott	Talmadge	Yarborough
Smathers	Thurmond	Young, N. Dak.
Smith	Tower	Young, Ohio
Sparkman	Walters	
Stennis	Williams, N.J.	

The PRESIDING OFFICER. A quorum is present.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Did I correctly understand the Chair to say "A quorum is present?"

The PRESIDING OFFICER. A quorum is present.

Mr. SMATHERS obtained the floor.

COLLEGE STUDENTS LAUNCH WAR ON POVERTY

Mr. RIBICOFF. Mr. President, will the Senator yield for an insertion?

Mr. SMATHERS. I yield.

Mr. RIBICOFF. Mr. President, the war on poverty already has begun in Michigan. College students walk from their tree-shaded campus into shadowy slum streets, eager to strike up friendships with younger and less fortunate children. They seek to demonstrate to those who might otherwise become dropouts that education truly can lead to a better life. Serving as they do, with compassion and understanding, they are sources of great inspiration for those youngsters who frequently lack the motivation needed to engage in the pursuit of knowledge.

In the March 20 edition of the New York Times, an article by James Reston describes this unique program as it operates in Lansing, Mich. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LANSING, MICH.: WHATEVER HAPPENED TO THE BEAT GENERATION?

(By James Reston)

LANSING, MICH., March 19.—The Peace Corps idea is spreading fast. Some 46 countries are now sending their young men and women into the world to help the poor countries, and a spontaneous volunteer student movement is also working quietly and effectively among the underprivileged children in our own cities.

The Student Education Corps here at Michigan State University is merely one of many illustrations of this movement in the United States.

It started over a year ago on the assumption that serious college undergraduates might be able to help the harassed and overworked teachers in the poor districts of Lansing, Pontiac, and other cities within 100 miles of the Michigan State campus.

They had no money from the university of the State, but a few of them reasoned that they might be able to deal with some of the worst of the kids who came from broken homes and had no incentive to get an education.

HOW IT WORKS

Now about 200 of these young college students go out as assistants to the slum schoolteachers several times a week. Some of them take on the backward pupils. Others work with the bright ones who are held back by the drones. A few go around the State with

a "Career Caravan" illustrating the kinds of jobs available to students who do their work.

But the main thing is not so much to help the young laggards with their work, but to make friends with them and thus provide good examples that are not available in many homes.

The movement has now arrested the admiration of Gov. George Romney. He addressed a meeting of teachers from all over the State here this week to introduce the leaders of the Student Education Corps to a wider audience, and there is evidence that the movement will grow.

Like the Peace Corps, the student volunteers go only where they are invited. Any school within reasonable range of the university can get them to help if it will only pay 8 cents a mile to bring a carload of undergraduates from the campus.

Nobody gets paid for the work, but David Gottlieb and Sandra A. Warden, who direct the corps, testify not only that they get all the volunteers they need, but that the volunteers themselves feel that they get as much out of the experience as the children they try to help.

The larger Government programs are directed at training the school dropouts. The Student Education Corps attacks the same problem earlier. "The ultimate aim of the corps is to help prevent premature dropouts by showing these children that education is the key to a better life, by providing needed inspiration and motivation to continue with their schooling."

This is not an isolated experiment. Similar activities are going on in other universities. Pomona College in California is another lively center. Gov. Terry Sanford, of North Carolina, is working with William Friday, president of the University of North Carolina, on a corps of volunteers to help the underprivileged, and Yale produced the northern student movement that is now active on many campuses not only in the field of education but of political action.

THE POLITICAL ACTIVISTS

For example, over 1,000 students from various colleges and universities, most of them affiliated with the northern student movement, will be going to Mississippi, Alabama, and Louisiana this summer to live in Negro homes and help the Negroes register for the November elections.

The Commission of Religion and Race of the National Council of Churches will run a training school for these volunteers at Berea College in Kentucky as soon as school is out in June.

Most of this activity, however, seems to start with a few young men and women unorganized by anybody else. For example, David H. Gunning, president of the executive board of student government at Cornell University, has advised the Justice Department that a group of students in Ithaca have collected $1,000 to finance a Cornell student team that will help with voter registration in Fayette County, Tenn., this summer.

Not so many years ago the poor "socio-economically disadvantaged" professors in the sociology departments were complaining about the postwar "beat generation" in America. A rotten crowd, they said, always dropping out of some school and into some bed: uninterested, uncommitted to anything but money, booze, and sex.

Unlike his contemporaries in other countries, who were knocking over governments and leading the torrent of political change, the American student, it was said, wasn't engaged in anything and didn't care about anything.

Well, something is happening on the campus. In some ways these student leaders are ahead of the Government. And when the Congress finally gets around to backing a domestic Peace Corps and backing President Johnson's "war on poverty," quite a few young American men and women will already be in the field.

PROTECTION OF THE RIGHTS OF INDIGENT DEFENDANTS—ADDRESS BY SENATOR DODD

Mr. RIBICOFF. Mr. President, last week in Hartford, Conn., my distinguished colleague, the senior Senator from Connecticut [Mr. DODD], called attention to one of the often overlooked battles in the war on poverty—the effort to assure protection of the rights of the indigent defendant.

From his great wealth of experience in dealing with law enforcement issues as attorney for individual clients and as prosecutor for a nation, Senator DODD has discussed the plight of the indigent defendant with rare insight and offered constructive proposals worthy of the serious consideration of every thoughtful citizen.

I commend his thoughtful remarks to every Member of the Senate, and I ask unanimous consent that his speech may be inserted in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR THOMAS J. DODD, BEFORE THE HARTFORD COUNTY BAR ASSOCIATION, HARTFORD, CONN., WEDNESDAY, MARCH 18, 1964

It is a real pleasure and privilege for me to be able to join with you in this annual dinner of the Hartford County Bar Association.

We in the legal profession are always besieged by many pressing problems. This is so because the legal process is at the very heart of the life of any society and every problem of the Nation impinges upon it to a greater or lesser degree.

I would like to speak tonight about one of the problems facing our profession, the problem of adequate legal representation for people of humble circumstances.

It has been said that the quality of a nation's civilization can be largely measured by the methods it uses in the enforcement of its criminal law.

All of us are familiar with and take pride in the many strengths of our legal system.

One of these strengths is the almost unlimited opportunity for a successful defense which our system of jurisprudence provides for those who can afford it.

But what of the impoverished defendant? Our record on this score leaves much to be desired.

My views are drawn from experience both in the private practice of law and in the prosecution of criminal acts as a Government attorney in the Department of Justice. And my work as a member of the Senate Judiciary Committee, which maintains a constant surveillance over the operations of our judicial system, has given me a chance to view this problem from still another perspective. In the preparation of these remarks, I have drawn heavily from a recent lecture delivered at New York University by Supreme Court Justice Arthur Goldberg and from the report of the Attorney General's Committee on Poverty and the Administration of Criminal Justice.

Winston Churchill stated my underlying theme more than 50 years ago when he said: "The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of any country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal, against the State—a constant heart searching by all charged with the duty of punishment—a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment—tireless efforts toward the discovery of curative and regenerative processes—unfailing faith that there is a treasure, if you can only find it, in the heart of every man—these are the symbols, which, in the treatment of crime and criminal, mark and measure the stored up strength of a nation, and are sign and proof of the living virtue within it."

The public has become familiar with the almost inexhaustible legal maneuvers of widely known personalities, courtroom gladiators who can string out their defense over a number of years and whose temporary success in staying out of jail frequently appears to the public to be a mockery of justice.

What is not properly understood is the plight of the average person who is accused of crime. More often than not, he is ignorant of his rights and is unable to afford the cost of a successful defense. Suddenly the vast apparatus of the State is turned against him with its whole armament of prosecutors, investigators, expert witnesses, police grillings and the rest of it that is so familiar to all of us. The crucial test of the validity of our legal system lies in the question of whether or not this accused person, regardless of his financial position, has the means for proper defense. All too often he does not have the means, and it is our task to do something about it.

One of the origins of our system of due process, as of so many of our rights and freedoms, was the Magna Carta, the series of royal concessions granted in the year 1215 by King John. One of those concessions was the following: "To no one will we sell, to no one will we refuse, or delay, right or justice. * * * No free man shall be taken or imprisoned, or disseised, or outlawed, or exiled, or anywise destroyed; nor shall we go upon him nor send upon him, but by the lawful judgment of his peers or by the law of the land."

To me this is an expression of the concept of equal justice equally applied to all. But as Justice Black has said: "There can be no equal justice where the kind of trial a man gets depends upon the amount of money he has."

The imbalance operating against the poor is apparent at every stage of the legal process. The poor man is more apt to be arrested in the first place than his middle class or upper class counterpart. When the police are rounding up suspects, they normally will do so in poor neighborhoods, and it is a well-known fact requiring no elaboration that the percentage of poor people who are arrested for crimes they did not commit vastly exceeds their percentage of the population.

Even when these victims of routine arrest are ultimately released they have already been damaged. Many of them lose their jobs or fail to obtain jobs because of his arrest record, even though they are without fault. And these are the very people who don't know enough about their rights to have their arrest records expunged, in those jurisdictions where it is permitted by law.

We cannot know how many people, living in an atmosphere of crime but not yet committed to that course, have been influenced toward a life of crime because of false arrests and the hostility these experiences engender toward society.

But let us go further. What happens after the arrest?

A person of means can arrange to be released on bail. The person without means may not be able to do so and may instead be

locked up throughout the period during which he is awaiting trial. Thus he is unable to properly assist his counsel in the preparation of his defense.

In a recent case a defendant was in prison for more than 2 years between the time of his first arrest and the time he was ultimately acquitted on appeal, because he could not raise the small sum necessary to post bail. This man was imprisoned for no reason other than his poverty.

The fact that such a thing could happen, and happens repeatedly in a nation which prides itself on the protection it affords to the accused, should cause all of us to do some thinking.

Here in Connecticut we are, as in so many other fields, in advance of many other parts of the Nation. We have a well-developed public defender system here which, while not perfect, is far superior to the practices in many parts of the country. I am speaking tonight not with particular reference to any local community or to the State of Connecticut but rather about a national problem with which we as a profession must be deeply concerned.

In a typical case the impoverished defendant has counsel appointed by the court to defend him. The amount of effort counsel will put into the defense is a matter of his own integrity and sense of professional responsibility. But as a rule it can be fairly said that in the average case the poor defendant gets far less of a defense than the man of means who can afford to pay adequately for counsel. And the court-appointed counsel has few, if any, of the resources that are in the hands of the prosecution or of well-heeled defendants. By that I mean the investigatory resources, the expert witnesses, the medical and psychiatric testimony, and so forth.

The counsel without adequate funds in back of him may be limited in his very ability to subpena the witnesses necessary in the presentation of his case. Under the present Federal rule the defendant who has the money to pay the prescribed fee may automatically obtain all necessary subpenas, but the defendant who cannot pay the fee must submit a detailed affidavit stating not only why he needs to subpena various witnesses, but also the substance of their expected testimony. Thus the defendant is required to disclose his case in advance, something that is not required either of the Government or of a defendant with means.

The discrimination against the impoverished defendant continues long after the trial is over. After conviction, the financial status of the accused can have a telling effect on whether he is placed on probation or put in prison; whether he is institutionalized or permitted outside psychiatric care within the normal framework of his life; whether at length he is paroled or not paroled. If his family or friends can give assurances about employment and a stable environment his chances of probation or parole are vastly improved.

Justice Goldberg quotes Warden Lawes, of Sing Sing, a man who has witnessed the execution of many inmates, as saying the following: "If a wealthy man or the son of a wealthy man kills, he is insane or deranged and usually either goes scot free or to an insane asylum. If a poor and friendless man kills, he is a sane man who committed willful murder for which he must die."

Now, because of the limitation of time tonight this has been a cursory and limited treatment of this subject; but almost all of you from your own experience know other instances and other circumstances which operate to the disadvantage of the poor man accused of crime.

The number of people who are unable to afford adequate defense are legion. I would say without fear of contradiction that half of the people of this country if suddenly accused of crime would be unable to pay for an adequate defense without going headlong into debt.

In effect, the innocent person of humble circumstance who is accused of crime is often suddenly faced with a grim choice between two terrible alternatives: going to jail or going bankrupt to stay out of jail.

A man of average means who sacrifices his small savings, mortgages his home and borrows up to the hilt to pay for his defense or the defense of a loved one and who eventually succeeds in getting an acquittal has already been damaged almost as much as though he were convicted.

The time has come when this progressive, affluent society of ours must turn its enlightened, compassionate thought to this subject.

I am going to put forth a number of exploratory propositions, not detailed recommendations, but proposals that we in the legal community ought to be thinking about. These proposals are not new and I know very well that there are specific objections to most of them. But the problem these proposals seek to remedy is a real and valid and significant one, and we must resolve to do something about it.

First of all the Congress should pass, and pass promptly, the administration bill that would set up a system of public defenders in our Federal courts.

I believe that all courts, in addition to appointing counsel for indigent defendants, must assure to that counsel adequate resources for a proper defense. He must be permitted to perform as an advocate in the full sense of the term and he must have access to expert witnesses and investigators and all the machinery of successful defense.

Some courts hold that the right to effective defense includes interpreters, accountants, and medical and scientific assistance at government expense where the defendant is unable to afford them. I wish this view would prevail everywhere.

Justice Goldberg cites an example for us to ponder, the administration of justice in the Scandinavian countries. There the government provides all the services, and they are available to all accused persons. This includes not just the providing of counsel but the services of government laboratories and experts. If the accused is acquitted, there is no charge for the cost of defense. If he is convicted, he is charged in accordance with his means.

It is time to revise our practices on the question of bail. The requirement of posting bail ought never to be an impediment to the proper defense of an accused. We must devise methods that will make it easy for the defendant of humble means to obtain the funds necessary for bail.

Certainly procedures regarding the issuance of subpenas, such as the Federal rule I discussed earlier which required the poor defendant to spell out his case in advance, ought to be changed. There should be no discrimination between rich and poor defendants in so vital a matter as obtaining witnesses.

And our systems of probation and parole can be vastly improved. I believe society should play a positive role in providing the job opportunities and the out-patient psychiatric care which spell the difference between parole and probation on the one hand and imprisonment or being committed to a public institution on the other.

There is another aspect to this. What about the victim of a crime, the person who is maimed, or robbed, or whose property is destroyed, or who is incapacitated and unable to continue working? I believe, along with others, that we should move ahead in our thinking on this question and start to provide the same assistance to these victims of misfortune as we do in other circumstances.

The victim of a crime has been denied the protection of society to which he is entitled, and society should bear the burden collectively rather than leaving the wronged individual to bear it all on his own shoulders.

I believe that some approach should be made toward reimbursing citizens for losses sustained through criminal acts against them.

We cannot, of course, find ways to rectify all human misfortunes but this is one area that we can operate in and should do so.

There are many community and private efforts going on which show great promise. One of them is in New Haven. Under a program there, a team, consisting of a social worker, an investigator, and a lawyer, is assigned to a poor neighborhood and seeks to uncover and get at the root of the causes of legal problems at their source, before they come to the stage of litigation. This program can be a very significant one and let us hope that it will succeed and will be emulated all over the country.

Every year more than 1 million of our fellow Americans stand before judges, after conviction, awaiting sentencing. The vast majority of these convicted persons are people of humble circumstances.

I make no sentimental plea here in their behalf. I am well aware that the laxity, the leniency, and the inadequacy of our law enforcement poses a greater threat to society than cases of undue severity.

But each of us who lives by the legal profession, when thinking of these millions of people convicted over the years must ask, "Did they have the fairest possible trial? Would they have been convicted had they had at their disposal the resources of a professional gangster or the money of a wealthy malefactor?

All too often I am afraid the answer to these questions is "No." And it is our duty as Americans and as members of the legal profession to take those steps necessary to guarantee that every citizen of this country will be provided, in the fullest meaning of the term, the right which we justly hold as sacred, and have enshrined in our Constitution, "the equal protection of the laws."

Let us resolve to take a leaf from the book of the most famous of all lawyers, Abraham Lincoln, who once said: "Determine that the thing must and shall be done and then we shall find the ways to do it."

Thank you.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the motion of Mr. MANSFIELD that the Senate proceed to consider 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 public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

Mr. SMATHERS. Mr. President, last Sunday evening, in a telecast from the White House over the major networks, the President of the United States stated his creed. It went as follows:

I have always said that I was proud that I was a free man first and an American second, a public servant third, and a Democrat fourth—in that order.

I am certain that creed expressed by the President of the United States struck a sympathetic chord in the hearts and minds of every American who observed and listened to that broadcast.

While all aspects of the President's statement deserved great commendation, I believe the first statement deserves the most—where he says:

I was proud that I was a free man first.

That is what we in this country are, and that is what I am sure every human being in the world longs and strives to be. They, like we, want to live in a free society where they too will have the opportunity to have a choice as to what kind of work they want to do, a choice as to the type and character of work they do; they want the right to select the man for whom they labor; they want the right to worship as they choose; and they want the right to be free to associate with those with whom they would like to associate, and the freedom not to associate if they do not wish to associate.

In short, this is the expression of all mankind, this is the real meaning of a free society.

A man has the right to exercise his free will and the dictates of his own conscience, and to do so without the requirement that he conform in his actions or deeds to the dictates of the state, or the king, or for that matter the dictates of any other man.

The root problem that we are really confronted with in this so-called civil rights debate we are now involved in is what, in fact, do we really mean by individual freedom and civil rights.

Is it a legal or judicial problem, or is it, in the final analysis, a moral problem or an ethical problem?

Is the problem of discrimination—wherein one person or one group choses another person or group as their associates, or business partners, or employees, or even their friends—is this discrimination and, if so, is it legal or moral? Certainly it has existed since the first day of recorded history in this and every other land through the world. Is this problem one that can be answered and solved by a legislature or a congress or by the stroke of the pen of a chief of state?

Mr. President, I do not believe so. I believe this is a problem of human mores and human judgments and human beings, with all the foibles and weaknesses involved therein.

But, Mr. President, I feel certain that this problem is one than can only be met, in the final analysis, in the hearts and minds of free men and women, men and women of good will, men and women of brotherly love, of education, tolerance, and understanding.

If we took the laws we now have on the Federal statute books and put them together with the laws of the various States of the Union, which we euphemistically call civil rights laws, and all of which are seeking in some manner or another to eliminate discrimination, prejudice, and bigotry in our work and daily lives, they would add up to some 600 pages of fine print of a large-sized legal document.

Mr. President, despite all those laws, we still have discrimination, intolerance, and bigotry. We could put another 600 pages of laws on the statute books with respect to this same problem in all its ramifications and we will not come any nearer to the solution of this problem than we are at this moment.

We have municipal ordinances on the statute books now which call for a halt to any type of discrimination because of a man's race, color, or religion. These laws were proclaimed to be the answer to the problem. It was said over and over again that if we would only be patient with these laws, they would provide a solution to the problem, that shortly thereafter there would be no problem with respect to the races, and that we would have no further problems with regard to discrimination. There is a plethora of statutes on the books, and yet discrimination continues.

We have Federal statutes and we have State statutes and yet discrimination goes on.

I would imagine that the State of New York has as many laws as any other State of the Union with respect to this particular subject, and it occurs to me that in my visits into that great State I have observed there as much discrimination and segregation between the white and colored races, if not more, than anywhere I have ever seen in the South. I have observed as much discrimination with respect to how certain minority groups are treated in New York City as I have ever seen anywhere in the world.

It is my recollection that the Civil Rights Commission, in its report for 1959, on page 365, which I have before me, states—and I shall read it exactly, word for word, in a moment—that there was more segregation in New York and Chicago than in any other city in the United States.

The Civil Rights Commission came to this conclusion even after all the laws were put on the books with respect to the elimination of segregation, in the hope that discrimination would be eliminated.

The Civil Rights Commission Report of 1959, at the top of page 364, states:

It is interesting to note that the maps show more racial concentration—

That is a nice way of putting it—

in northern cities and more dispersion of nonwhites in the southern cities.

The conclusion can be drawn that there is less segregation, actually, in the South than there is in the major cities of the North.

The Civil Rights Commission report of 1959, at page 365, also states:

The general metropolitan residential pattern is shown by Chicago—now said, on the basis of census tracts, to be the most residentially segregated city in America.

The report goes on to state that in New York much the same situation prevails.

This has been accomplished despite the fact that there have been many laws on the books, enacted by State legislatures, and many ordinances adopted by municipalities and city councils providing that it is illegal to practice segregation. Yet it is done. It will continue to be done until we can bring about a transformation within the hearts and minds of our people.

We could not only put a 600-page law on the books, but a 1,600-page law, and it would not answer the problem that we are seeking to solve. Giving everyone credit for the purest motives, a solution to the problem of segregation cannot be found in the enactment of more and more laws.

There is ample law on the books today to rid us of all discrimination—if laws could do it. The courts have made it clear over and over again that they will not allow discrimination under the law or under the color of the law, and anyone who feels so aggrieved has the right, under the 14th amendment, to go into any Federal court and receive redress for this alleged or imagined discrimination.

But the discrimination goes on, and the reason it goes on is because the real discrimination which we are talking about today does not result from either a lack of law or authority of existing law, but rather because human beings are human beings who like their right of choice—their right to associate with whom they like, their right to work and worship as they choose, their right even to be wrong in their judgment.

It seems to me these rights are the very cornerstone of our individual freedom in our free society. To attempt to legislate these rights away from the majority of our people to try and gain some rights for a minority, is indeed embarking on a dangerous course that could well stifle liberty rather than advance it.

Last year in the case of *Peterson* v. *the City of Greenville* (373 U.S. 244, 1963) Justice Harlan wrote this:

Underlying the cases involving an alleged denial of equal protection by ostensibly private action is a clash of competing constitutional claims of a high order: liberty and equality. 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 entitled to a large measure of protection from governmental interference.

This liberty would be overridden, in the name of equality, if the strictures of the 14th amendment were applied to governmental and private action without distinction. Also inherent in the concept of State action are values of federalism, a recognition that there are areas of private rights upon which Federal power should not lay a heavy hand and which should properly be left to the most precise instruments of local authority.

Mr. President, the distinction which exists between governmental and private action has been drawn over and over again for us by the courts, and over and over again the great weight of authority has ruled that the right of free men to act according to their own will in the conduct of their private lives and personal relations should not be tampered with. This right to act as a free individual in matters of private affairs is the very cornerstone of our system. It is this right which makes the difference between a free country and a dictatorship.

Mr. President, for one who believes deeply in all the implications of free-

dom and who believes in the human dignity of every American irrespective of his race, color, or creed, the Civil Rights Act of 1963 which we are discussing in 1964 poses a terrible dilemma.

This dilemma, I believe, is resolved in the final analysis by the fact that this act attempts to gain for one group of men more freedom by depriving another group of theirs.

It clenches the heavy hand of the Federal Government into a fist which crushes into our concept of a Federal system recognizing the rights of 50 States. It waves the noble banner of human rights by permitting the exercise of unrestricted power on the part of too few people with too few assurances that that exercise of power will be fair and judicious.

Mr. President, I was born in the North. I was born in the great State of New Jersey. My father had the privilege of serving as Woodrow Wilson's southern New Jersey campaign manager when Wilson ran for Governor. He had the distinct honor of serving as a judge in New Jersey. My uncle, who was born in North Carolina and moved to New Jersey, was honored by the citizens of New Jersey by being able to serve them as, first, the junior and then the senior Senator from that great State here in this body.

My first impression of life was as a northerner rather than as a southerner, and even though a citizen of Florida since 1919 and a citizen of Southern parentage, my father having been born in North Carolina and my mother in Virginia, I have had the opportunity to see, in the 18 years I have been privileged to serve in the U.S. Congress, the 3 years in the Marine Corps, and the 2 years I served in the Department of Justice, some of the areas around this Nation and even in other parts of the world and to make comparisons. So I do not speak from hearsay nor from information supplied me by some organization that has an ax to grind, and there is no doubt in my mind that the provisions in the pending bill are based on a wrong assumption of facts or are an assumption that the people of the South should be punished, both of which assumptions, of course, are incorrect.

We do not deny that we have problems in the South. Certainly we do and we are desperately trying to solve those problems ourselves. We have made great progress in recent years with respect to our schools. For example, in my State we appropriate as much money for a colored student in our public schools as we appropriate for a white student. We spend more on schoolrooms for colored children than we do for those for the white children.

From the end of World War II until last year we appropriated more for each colored student than we appropriated for each white student, because it was found that for many years less educational opportunity had been offered to colored students of our State than had been offered to white students.

Under the present law and with present appropriations, there is no discrimination with respect to the amounts of money made available to colored students and white students. We spend more on schoolrooms for colored children than we do on schoolrooms for white children.

We have 1 teacher for every 16 colored students, while the ratio in the white schools is 17 students per teacher. Much has been said about the jury system. On county juries, State juries, and Federal juries, Negroes today serve with the same facility and the same opportunity as do white citizens.

With respect to voting in Florida, according to the Southern Regional Council, in 1956, 70.6 percent of all registered Negroes voted. That is a higher percentage of voting than is shown for the whites. Registration in most counties is on the increase.

Therefore, this particular bill, as it pertains to voting, does not make any great difference so far as we in Florida are concerned, except that we do not need it.

I have told the people of my State that under no conditions would I defend any public official who sought to deprive any citizen, regardless of his race or color or creed, of his right to vote. Voting belongs to all qualified Americans.

I can tell Senators that I believe that position was approved by the people of my State.

On three occasions I have run for statewide office in my State. I have participated in numerous campaigns. I have participated in campaigns on behalf of Governors and Democratic nominees for President. I have yet to encounter any instance in the State of Florida in which anyone has been able seriously to maintain that the Negro citizen was in any fashion deprived of his right to vote.

I am satisfied that if the Negro citizens in any Southern State could speak here today, they would say to the Senators who have recently appointed themselves defenders and self-appointed Messiahs: "Do not spend your time talking about us as poor, benighted, backward people who need your unsolicited help." Rather, I think they would say, "Start spending your time in passing legislation which will be of real benefit to us."

Negroes would say to those who loudly champion the right of the Negro citizen to vote, and who make it appear that large numbers of Negroes are deprived of their right to vote, when in fact there are very few instances in which they are deprived of their right to vote—and the number is rapidly diminishing—"Don't spend your time talking about my right to vote, because I am getting it. Spend your time worrying about how I am going to get a better job. How are we going to get better classrooms? How are we going to improve the school system for everybody?"

They would say, "Do something about the farm problem," because a great many of the Negroes engaged in farming in the South are small farmers. They would say that something should be done with respect to small business, because many of the Negroes of the South engaged in business are primarily small businessmen. They need credit and encouragement to modernize and advertise and expand, in order to compete with chainstore operations.

There are a number of provisions in the bill which will stimulate and encourage the orderly solution, by voluntary means, of the problems confronting Negroes in the fields of voting, education, housing, employment, the use of public facilities, transportation, and the administration of justice. I refer to the provisions of title V providing for the continuance of the Commission on Civil Rights and those provisions of title IV providing for Federal programs and funds to assist in the educational problems occasioned by desegregation. If Federal power is to be used effectively to improve the plight of the Negro, it should be concentrated on expanding the American economy and developing the public facilities of the Nation.

The heart of the problem is the need for equal economic opportunity at an adequate level in jobs, housing, and schooling. There are not enough jobs, not enough good housing, and not enough good schools in the South or in the North. The recent passage of the tax bill is an excellent step toward stimulating the economy and producing the jobs needed for improving the economic status of American Negroes. Congress must take additional action of this kind.

Mr. President, I was reading the Wall Street Journal earlier today. The mention of the tax bill brought to mind an article in that newspaper, entitled, "Power Firm Says Tax Cut Spurs $1 Billion Expansion." I mention this because there was some argument at the time the tax bill was passed as to whether or not the passage of that bill would in fact stimulate the economy. The article reads in part:

> According to the Associated Press, Donald Cook, president of the power company, outlined the plans to President Johnson as concrete evidence that the President was right in pressing for the $11 billion-plus tax cut bill.

We who supported the tax cut bill read with great interest and approbation that General Motors announced it was spending an additional $2 billion on the expansion of plant facilities, which it would not have spent had Congress not passed the tax cut bill. This is the kind of thing which will provide jobs. General Motors said it would provide 50,000 additional jobs by virtue of the tax cut bill and by virtue of the intended expansion of its plant facilities. Of those 50,000 jobs, many will go to Negro citizens and all other citizens who need jobs.

As a result of the announcement that was made by the American Electric Power Co., undoubtedly many thousands of jobs will be created. This will help to take care of the needs of Negro citizens, because when a Negro citizen has the money to send children to school, when he has the money to provide an adequate house around him and a roof over his head, when he has the money to obtain the medical attention he needs, he can obviously become as fine and useful a citizen as anybody else. But a job is what he needs first. He does not need protection from above called the elimination of discrimination. What he needs

is help in the ordinary daily living with which he is so intimately involved.

The answer to the racial problem is understanding and education and tolerance. The bill under consideration does not provide for these elements. On the contrary in my judgment, it divides us, it creates distrust and doubt; it will result in fear and intolerance; it will stop the progress now being made, and set us back in our efforts to solve our problems.

PROCEDURAL PROBLEMS UNDER SENATE RULES

The pending question is the motion to proceed to consider 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 public facilities and public education, to extend 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 so-called Civil Rights Act of 1963.

As the distinguished senior Senator from Arkansas [Mr. McCLELLAN] so ably pointed out the other day, the motion raises a serious procedural question with respect to proper application of Standing Rule of the Senate No. XXV, which makes it mandatory to refer a bill of this kind to the proper committee—the Committee on the Judiciary, in this case.

Rule XXV, "Standing Committee," unequivocally states the correct procedure in the following language:

1. The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise:

* * * * *

(k) Committee on the Judiciary, to consist of 15 Senators, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Judicial proceeding, civil and criminal, generally * * *.

* * * * *

3. Federal courts and judges * * *.

* * * * *

5. Revision and codification of the statutes of the United States * * *.

* * * * *

12. Civil liberties * * *.

Note how clearly the intention of the Senate rulemakers was expressed, "to which committee shall be referred all proposed legislation relating to civil liberties."

There is no ambiguity in the language, no "weasel wording," to raise doubts in the minds of those who seek the correct procedural application of the Standing Rules of the Senate.

In the light of the concise and forceful expression of intention of this rule XXV to have proposed civil rights legislation referred mandatorily to the Committee on the Judiciary, how can rule XIV, paragraph 4, the device being used by the majority to nullify orderly Senate procedure, be interpreted otherwise than a limited means of delaying discussion on a proposed measure for 1 day.

True, paragraph 4 of rule XIV of the Standing Rules of the Senate, when read alone, seems to make this undemocratic method of bypassing the standing committees of the U.S. Senate its purpose. The rule states, in its pertinent paragraph:

4. Every bill and joint resolution reported from a committee, not having previously been read, shall be read once, and twice, if not objected to, on the same day, and placed on the calendar in the order in which the same may be reported; and every bill and joint resolution of the House of Representatives which shall have received a first and second reading without being referred to a committee, shall, if objection be made to further proceeding thereon, be placed on the calendar.

So, on its face, it would allow objection by just one Member "to further proceedings thereon," to force the bill from the Senate and to be placed on the calendar, without being referred to the proper committee. This rule, when read with intelligence, cannot mean that one Member has the power to circumvent the orderly process of committee hearings, solely by objecting to the measure at the assigned time.

To so interpret paragraph 4 of rule XIV of the Standing Rules of the Senate plays havoc not ony with all reasonable concepts of majority rule, so necessary for a representative body in a democratic process; to so interpret not only rides roughshod over all time-honored ideals of order and tradition, which are so wisely respected in this lawmaking body; to so interpret not only makes a hollow mockery of the entire committee process, with the years of specialized experience of the long-standing members gone for naught; but to so interpret paragraph four of rule XIV flies in the face of normal methods of interpretation.

In other words, while the paragraph at its face value seems to require the rather extreme result that one Member of the Senate can impose his private will on the entire Senate by this rule, close study shows this apparent meaning to be patently erroneous.

To begin with, paragraph 4 of rule XIV of the Standing Rules of the Senate is in direct conflict with rule XXV of the Standing Rules of the Senate. Where conflict exists, the later in time is given precedence over the earlier conflicting words, if they cannot be harmonized. And, on their face, they cannot be harmonized, for they dictate inconsistent alternatives.

A bill obviously cannot be sent to committees as per the mandatory "shall be referred" phraseology of rule XXV, and at one and the same time be placed on the Calendar, following objection by one Member, as per paragraph 4 of rule XIV. So one or the other must be so interpreted that harmony between the conflicting rules results, with one or the other rule being so construed that its interpretation is not apparent from the words read alone.

It has been suggested that rule XXV be so construed; its clear, concise "shall be referred" being read to the effect "providing paragraph 4 of rule XIV is not invoked by some one Senator, then any remaining bills shall be divided up amongst the various committees as follows." Besides negating the committee principle entirely, this neglects the telling point that rule XXV was rewritten in 1946, while rule XIV has remained unchanged since 1877.

Mr. HILL. Mr. President, at this point will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Alabama.

Mr. HILL. Is it not a fact that rule XXV came about as a result of a careful study which was made by a joint committee headed by the late Senator LaFollette, a distinguished Member of the Senate, and by the then Representative Monroney of Oklahoma, now the senior Senator from Oklahoma, and that the joint committee spent months studying this entire subject?

Mr. SMATHERS. That is entirely correct. The result of their work is generally known as the Congressional Reorganization Act of 1946; and it was because they did such magnificent and yeoman work on it that, in my opinion, both the late Senator LaFollette and the then Representative Monroney, now the senior Senator from Oklahoma, were given Collier awards and were praised and eulogized by the press of the Nation for having modernized the operations of Congress. In that act a new committee system was established. Once again they emphasized the fact that when proposed legislation came from the House to the Senate—as was the case with the civil rights bill—there was no question that the measure would, in the orderly processes of the Senate's business, be referred to the appropriate committee.

Mr. HILL. Is it not also true that with that very thought and intent in mind, the rule, as adopted, included the word "shall," and that therefore there is no possibility of equivocation? That rule means that all measures shall be referred to a committee, does it not?

Mr. SMATHERS. That is correct.

So only by the most tortuous reasoning and construction of rule XXV, which was adopted in 1946, could one possibly arrive at the course now being followed, which obviously is not based on sound logic or procedure.

Mr. HILL. Yes. In fact, under that course there would be no possibility of following the procedure the Senate regularly follows—namely, to have the bill referred to a committee; is that not correct?

Mr. SMATHERS. That is correct.

Of course the Senator from Alabama knows more about this subject than I do, for I did not become a Member of the Senate until long after he had become a Senator. I first began to serve in the House of Representatives in 1947, after having been elected to the House in November 1946; and I was first elected to the Senate in November 1950, and began my Senate service in 1951. However, I believe it is generally understood that, apparently under the old rule XIV, one Senator could make an objection to having a particular bill referred to a certain committee; and then, on the basis of that objection by only one Senator, the bill

would not be referred to that committee, but, instead, would be placed on the calendar.

So clearly the intention in 1946 was to provide, as a definite part of the rules of the Senate, that all bills and other measures, after having been introduced in the House of Representatives and sent to the Senate, would be referred to the appropriate Senate committee.

The most common rule of interpretation would make the recent rule control and would construe the older rule so as to fit the purpose and aims of the new rule. But here, we are asked to do the opposite of normal legal interpretation of conflicting articles within a single document.

We generously assume, when asked to act contrary to normal rules of construction, that overpowering reasons exist for such behavior. But when we look outside the Standing Rules of the Senate, to past performances of the Senate under both of these rules, we find all of the evidence indicates the unusual standard of interpretation we are being asked to swallow is also the most rare and extraordinary behavior ever seen on the part of the Senate. On the other hand rule XXV's mandatory words, the ones we are being asked to disregard—rather the one we are being asked to interpret as a rule of allocation among committees—are the very essence of past senatorial procedure itself. The entire day would be consumed by an attempt to cite those instances where rule XXV was faithfully followed. And on the other side of the question, what precedents support an interpretation which would make rule XIV, paragraph 4 controlling? We might generously assume, once again, that any interpretation of a rule that has had an 87-year history and is now proposed for serious discussion will have great precedent on its side too. But no, our generous assumptions again appear unwarranted by the history of the proposed interpretation.

The history of section XIV, paragraph 4, while long in years, is short in precedent for any but its original use. This original use, the only one proffered for some 60 years, was a limited, delaying tactic, as explained in the informative and noteworthy speech of my honored colleague from Arkansas on March 12. The true meaning of the words were explained in their historical context on page 5067 of the RECORD for that day as follows:

> In the 1870's and 1880's, there was generally a brief morning hour followed by a call of the calendar which occurred almost every day. Senators were naturally interested in finishing the morning business and getting on with the calendar. Other Senators were anxious to make insertions in the RECORD and leave the floor to return to other duties. However, at that time, when a Senator introduced a bill, or when a bill was messaged from the House, it was the normal procedure to move to refer it to a specific committee, following the second reading, and this question of appropriate references was debatable. As a result, Senators were obliged to sit around and wait. They were unable to make their routine insertions in the RECORD or finish morning business and proceed with the calendar until debate on the appropriate reference ended. Accordingly, provision was made to enable any Senator to object to further proceedings on a bill which would then place the bill on the calendar from which position it could ultimately be referred to committee.
>
> The second reason for this paragraph was to prevent precipitous action on a bill before Senators had an opportunity to examine it and become familiar with its provisions. From time to time, bills would be introduced or come over from the House which had not been printed and which Senators desired an opportunity to examine. By objecting to further proceedings with respect to such bills, prior to their reference to committee, an opportunity was afforded to have the bill printed and to examine its provisions.

So matters stood until the past 15 years. In 1948 a bill to repeal the tax on oleomargarine was calendared upon the objection of a Senator under paragraph 4 of rule XIV, but as no one objected to this move, and there was no ruling from the Chair, this was not a precedent.

On the following day, during some discussion about which committee should take the tidelands oil bill, the junior Senator from Arkansas [Mr. FULBRIGHT] made the point of order that rule XIV would permit immediate calendaring of the bill. This point of order was debated at length, and then submitted to a vote before the Senate. The result was a 56-to-15 vote against the motion of the Senator from Arkansas and for the commitment to the proper committee. So that is not a precedent for this action.

This leaves the action of the Senate during the 1957 civil rights bill as the sole precedent, and this is scarcely enough to outweigh the precedent favoring rule XXV as the desirable guide. The worthiness of this single, solitary precedent is fully discussed by the senior Senator from Arkansas [Mr. MCCLELLAN] in his masterful presentation of March 12 on pages 4890–4891 of the RECORD.

But leaving aside past precedents as a motivation for our discussion, consider for a moment, if you will, future precedent. Consider the corroding effects on the fabric of the legislative process. Today, the majority may favor this ramrod technique.

But consider tomorrow, when this corruption of legislative due process may be used to calendar bills Senators might desire to have referred to committee. Gentlemen, we are going to strengthen our senatorial procedure, or we are going to weaken it. And, as we choose, to either strengthen procedure, or weaken it, we choose to either strengthen our result, or weaken it. What else can result from hasty, ramrodded laws, from ill-considered and expedient measures, from disregard of known workable process, what else can result but not only a deterioration of Senate procedures, but also the passage of poor laws and ill-considered laws?

And these poor laws will not even have the benefit of a committee report to aid the judicial department of our Government in applying them. For without a full committee investigation, with the beneficial disclosure, debate, and publicity flowing therefrom, there will be no committee report to guide the court. And no committee report to indicate how the limitations and extensions of the statutory law are intended by the Congress to guide the executive agencies in establishing these procedures, drafting their regulations, and the like. In short, we are being asked to vote on a bill far reaching in effect and powerful in sanctions, but without adequate history to insure that even its own strong terms are somewhat restrained and tempered to stay within the intent of Congress.

Perhaps it can be said that a report from the appropriate senatorial committee is not the only element in creating a satisfactory background in which to place so all-encompassing a bill as this one.

Perhaps it is thinkable, of and by itself, to forgo the committee, and rely on other means. Not that this would be generally admirable on the part of men who have a duty such as ours, but supposing, then, for the sake of discussion, we seriously consider following the rule XIV paragraph 4 ramrod route on all measures. Then what?

A cursory examination of the history of this bill thus far shows more than a desire to evade the due procedure of a committee hearing, as demanded in rule XXV of the Standing Rules of the Senate, but evinces a determined plan to dishonor all procedure and policy that stands in its way. Gentlemen, from its inception this bill has followed the dangerous course of expediency, makeshift, and jury rig, an-anything-goes philosophy of action, provided the bill goes through the Congress as written by the office of the Attorney General.

I respectfully submit that this approach is inappropriate for any bill, and it would be a dereliction of our duty for us to stand idly by and allow the Senate of the United States to partake of this deed, in view of the grievous consequences attendant upon a misconceived Federal civil rights bill.

Mr. President, I have been stressing precedent for some time now, and rightly so. I have been praising due procedure, and rightly so. For when precedent and due procedure are shunned the result is bad legislation.

But to us personally, as Members of this great body, procedure and precedent are a means of respecting the reputation of our fellow Senators. As an example, let me read a portion of the Minority Report Upon Proposed Civil Rights Act of 1963, House Committee on the Judiciary, Substitute for H.R. 7152, at page 62:

> HISTORY OF THE LEGISLATION
>
> This legislation is being reported to the House without the benefit of any consideration, debate, or study of the bill by any subcommittee or committee of the House and without any member of any committee or subcommittee being granted an opportunity to offer amendments to the bill. This legislation is the most radical proposal in the field of civil rights ever recommended by any committee of the House or Senate. It was drawn in secret meetings held between certain members of this committee, the Attorney General and members of his staff and certain select persons, to the exclusions of other committee members.
>
> Sometime prior to October 22, 1963, Subcommittee No. 5 of the Judiciary Committee of the House of Representatives had prepared a substitute bill for H.R. 7152. Title

I of the substitute was read and discussed by the full Judiciary Committee prior to October 22, and at a meeting held on that date a motion was made by the gentleman from West Virginia to report the subcommittee substitute to the House of Representatives. Before final action could be had on this motion, a point of order was made that the House of Representatives was then in session. The chairman of the committee called a meeting for the following morning, the 23d, and then on the 23d, within an hour of the time of the meeting it was postponed to the 24th, and then on the 24th, a short while before the meeting was scheduled, it was postponed again, and later postponed to Tuesday, October 29.

These various postponements were made by the chairman without any prior consultation with any of the signers of this report.

On October 29, the full committee met at 10:30 a.m. The motion of the gentleman from West Virginia was promptly voted down, after which Chairman CELLER offered a 56-page mimeographed substitute which he described as an amendment and moved that the committee approve the bill. The chairman announced that he would recognize a member of the committee to move the previous question and in 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 or 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 any opportunity for debate.

I may say parenthetically that it was clear that Mr. MCCULLOCH, from Ohio, the ranking minority member, was for this particular bill, as was the chairman. Both of them refused to yield to any other member of the committee. Neither of them debated the bill or discussed it in any fashion other than to say they favored it. They made no effort, in the 2 minutes they consumed together, even so much as to discuss the provisions of the bill. In short, there was no actual debate, or even an opportunity for debate.

I continue to read from the minority report:

Immediately upon the conclusion of the remarks from the gentleman from Ohio, the ranking minority member, the chairman recognized a member of the committee friendly to the chairman's proposal who moved for the previous question. The clerk of the committee immediately called the roll upon the motion to approve the bill and before the tally could be completed or the vote announced, the House was in session. The committee met later in the afternoon and, the tally of vote upon the motion to approve the bill having been completed and announced at the morning meeting after the House session had commenced, a motion was made and adopted that H.R. 7152 be reported to the House. The chairman treated the vote taken upon the bill at the morning session as being valid.

The signers of this minority report in reciting these facts relating to the procedures employed in the full committee 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. HILL. Mr. President, will the Senator yield for a question?

Mr. SMATHERS. I yield.

Mr. HILL. The Senator from Florida was a distinguished Member of the other body for several years, and has been a Member of this body since 1951. Has he ever heard of any such action—I might say lack of action—as has characterized the reporting of this bill by the House Judiciary Committee?

Mr. SMATHERS. Never, in the time I have been in either the House or Senate, have I ever seen an attempt to railroad or ramrod through any legislation such as I have seen attempted with this legislation.

Mr. HILL. Even on some minor bill?

Mr. SMATHERS. No such instance has come to my attention, even in connection with a minor bill. There is more justification for haste on a minor bill than there is on a bill of this import, which reaches into the lives of every man, woman, and child in the United States, and, in my opinion, in an adverse fashion. If there ever was any justification for putting a bill through in a ramrod fashion, it is not in connection with this bill, which affects the life of everyone in the United States.

Mr. HILL. Is it not a fact that the report from which the Senator from Florida has read was signed by six Members of the House?

Mr. SMATHERS. The Senator is correct. If it had been possible, I am sure many other Members of the House would have signed it. There was a sizable vote against the bill. I am sure one of the reasons for the sizable vote against the bill was the manner in which it was considered.

When we talk about trying to follow sensible legislative processes, it is obvious that there must be some discussion or debate in order to tailor a bill to fit the existing conditions.

If we are to eliminate the legislative processes as we have known them heretofore in the House and Senate, where there are orderly committee hearings, and where witnesses both for and against a bill can be heard, I fear it will not be long until it will be said, "Why not eliminate the whole Congress, and take orders from the executive branch of the Government?" That is what is being done in this particular instance.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. SMATHERS. I yield.

Mr. HILL. Does not a committee, in its hearings, give the people of the United States their best opportunity to exercise the right of petition, as guaranteed in the Constitution?

Mr. SMATHERS. The Senator is correct. When we fail to follow the procedures outlined in our rules of procedure, we deny the people the opportunity to come before us. There has been no opportunity, so far as I know, for any witness to come before a committee of the Senate to express his disapproval of the bill in its present form. It has been said that 26 days were spent in hearings on one section, and 26 days on another 2 years ago, 26 days some other time, and so forth; but on this particular bill there has not been 1 day of hearings, so far as I know, before any committee.

The able Senator from Connecticut said in the colloquy a moment ago, when the distinguished Senator from Alabama was speaking, that we are all Senators, that we are going to have discussion here today, tomorrow and the next day, and we are going to arrive at the right conclusion. I pointed out to him—and I repeat—that if that is the way we should proceed, if he believes that, then we should eliminate the standing committees and take up every measure on the floor of the Senate. We know that we could not very well do that in the complicated society in which we live today.

I am afraid that we would not have much justice. I am afraid we would not have orderly procedure. I am afraid that in time we would not have much democracy if we proceeded in that fashion.

I know there is a great hue and cry for haste. I have listened to the comments of many distinguished Senators who wish to get the bill on the statute books because they believe it would solve all problems. The bill, even if enacted, would solve none of the problems which it purports to solve.

The distinguished Senator from Alabama [Mr. HILL] has been on the floor with great regularity but has just left the Chamber, after having made a 4-hour speech, to provide himself with sustenance for the inner man and the physical man. While he was absent, I said that we could put another 600 pages of laws on the books, and it would not change anyone's ideas as to where he wishes to live, for whom he wishes to work, and with whom he wishes to associate.

It is strange that in the States having the most laws on the books with respect to eliminating segregation, and with respect to eliminating discrimination, there exists the most discrimination and segregation. All one has to do is look at the 1959 report of the Civil Rights Commission to see the situation with respect to segregation. All one needs to do is travel a little to see it with respect to discrimination.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am very happy to yield to the Senator from Minnesota. I have been waiting for him with great anticipation to rise and ask a question.

Mr. HUMPHREY. I appreciate the enthusiasm and the anxiety of the Senator.

Mr. SMATHERS. I remember the days when the Senator from Minnesota and I used to go on the old American "Forum of the Air," Ted Granik's Sunday program. That was in the days before TV came along, but we spilled each other's blood at such regular intervals every Sunday afternoon that it became the first color program. This was in connection with the civil rights debate. I am delighted to yield to him for a question.

Mr. HUMPHREY. That was before color TV.

I am particularly happy to have the Senator yield to me for a question.

Mr. President, I ask unanimous consent that without in any way jeopardizing any rights of the Senator from Florida, he may yield to me for the purpose of dialog as well as a question.

Mr. SMATHERS. I am happy to yield to the distinguished Senator from Minnesota for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. I thank the Senator and the Chair.

First, I should like to say to the Senator from Florida, who is accompanied here this evening by the senior Senator from Alabama [Mr. HILL], that I cannot think of better company to be with, or two finer gentlemen with whom I would rather be associated. So whatever I may say in this argument is only to state a point of view, and in no way to cast reflection upon two of the most able and distinguished men in the Congress.

The Senator from Florida indicates that the bill would settle nothing. On that point, let me say that it would provide the legal framework in which some of the problems that exist could be settled; or at least an honorable, peaceful attempt could be made to settle them.

The bill is not a sectional measure. It is national in its application and scope. I would not wish any of my remarks to be interpreted as casting a reflection on the South, the East, the North, or the West, but would rather have my remarks interpreted as applying to all 50 States. There are instances of discrimination and segregation, some by law and some de facto. We are all somewhat guilty of this offense.

But to say that since a law does not prevent a problem there is no reason not to have the law is absurd. The laws against robbery do not prevent robberies, but they provide a way to punish those who may be robbers, and they provide court procedures to assure justice.

The laws relating to public health do not prevent all disease, but such laws provide a means of bringing about actions and conduct by human beings that minimize disease.

So, when we talk about law, we do not indicate that the law is the answer, but that law is a process which can lead toward an answer.

I do not believe any Senator will deny that there has been impairment of voting rights, and infringement and disenfranchisement of this right. I do not believe that anyone can deny that hundreds of thousands of people have literally been denied the right to vote.

Let me give an example. About a week or 10 days ago the Senator from Louisiana [Mr. ELLENDER] noted on the floor of the Senate how few citizens were registered for voting in the District of Columbia.

I believe the facts will show, however—and I intend to bring them more definitely to the attention of the Senate in specific terms—at a later date—that more voters have been registered in the District of Columbia in the past month than were registered in the States of Mississippi, Alabama, and Louisiana in terms of new voters in the past year.

No effort is made in the District of Columbia to restrict registration. Some effort is made to restrict registration, as we found recently in the Civil Rights Commission report, in certain States, such as Mississippi. What we are discussing is not so much that a man is registered or not registered to vote, but whether there are impediments to his registration, and whether all people are treated alike.

If I were to describe the bill I would call it "the freedom of choice bill," the right to let people go into a place of public accommodation or not, the right to vote or not to vote, without any roadblocks, without any impairment.

I do not believe the Senator from Florida, able, wise, and prudent as he is—and also adroit in the art of debate—can stand before the Senate, or before any of his own good constituents, and deny that there is infringement of the right to vote, or deny that title I in the bill would help to correct that situation.

Does the Senator deny that there is infringement of the right to vote?

Mr. SMATHERS. I do not deny that there has been infringement of the right to vote, but I want to get to the Senator's argument regarding the District of Columbia. He finished by saying that there have recently been more people registered in the District of Columbia than have ever registered before. They registered before the bill was ever considered. It has not passed yet. That is my point. It is not needed. There is sufficient law on the books now.

Mr. HUMPHREY. Just a moment——

Mr. SMATHERS. That is what I am saying. They do not need it. They already have it. The Senator has made my argument for me.

Mr. HUMPHREY. Oh, no; I have not made the Senator's argument for him.

Mr. SMATHERS. Some 65,000 people have just registered in the District of Columbia, which indicates that the current laws are sufficient. We have begged Negroes to register and vote in Florida. The Senator from Minnesota was not in the Chamber when I said I had been in several campaigns in behalf of Democratic nominees for President—and I hope to be in others, and will be in others—with my distinguished friend the Senator from Minnesota. We shall be working together arm in arm. He will be in the South and will see that we are begging Negroes to come in and vote. We say, "Please come in and register to vote." The law allows them to vote.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield further?

Mr. SMATHERS. No further laws are needed. As the Senator says, in the District of Columbia there has been the greatest registration ever. I pointed out earlier that in my State of Florida in the last election a higher percentage of registered Negroes voted than was the case with white people. The white people do not need any additional laws.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SMATHERS. I yield.

Mr. HUMPHREY. The Senator has shown what a good job can be done when there are no impediments to voting. Does the Senator deny that when colored people are forced to stand in line all day, for 8 hours, and only 6 persons are registered in those 8 hours, there is an impediment to the right to vote? The evidence shows that to have happened.

Mr. SMATHERS. I do not believe that is right, based on what the Senator has said.

Mr. HUMPHREY. What is the purpose of the bill? The purpose of the bill is that if a citizen brings a suit to protect his right to vote and he goes into court, that suit will be given priority attention at court, without his having to wait 6 months or 12 months before the case can be heard by the court. Title I also provides that the Attorney General may come into court to protect that person's right to vote, when he is denied the right to vote and he brings a suit. Of course the District of Columbia does not have any problem with registration. Why? Because the officials have been standing with open arms, saying to the people, "Come in and register." However, the registrars of the State of Mississippi do not do that. Does the Senator deny that?

Mr. SMATHERS. I would say——

Mr. HUMPHREY. Does the Senator agree?

Mr. SMATHERS. I have read the reports.

Mr. HUMPHREY. What do the reports reveal?

Mr. SMATHERS. The reports reveal what the Senator says is correct. However, the reports were made with respect to what happened some years ago. Things are changing. After the Civil War, it was almost impossible to get anybody to vote. There were times when it was not possible to get anybody to vote. There were times when it was not possible to get white people to register and vote. I have seen long lines of white citizens trying to get the opportunity to register and vote. Does that mean that we should have more laws, or a new civil rights law, so that white people may have an opportunity to vote? There are a few instances in which that has happened; and the Senator from Minnesota would subvert the Constitution to give to the Federal Government the right to start conducting elections and to set qualifications for voters. That power is given specifically to the States. The Constitution itself does not permit it.

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

Mr. SMATHERS. The Senator cites a few instances which have occurred in Mississippi, and which may have happened in some other States. Such happenings are on the decline. The Senator likes to call the bill a freedom-of-choice bill. He wants people to have the right to go where they please. He does not say anything about the right of a man who has built up a little business to say what he wants to do with that business or whom he wants to hire.

I do not see how this measure can be called a freedom-of-choice bill. Does not a small businessman have the right to make a choice as to how he wants to operate his business and whom he wants to have in his business?

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

Mr. SMATHERS. I yield.

Mr. HUMPHREY. I will come back to that, because I expected the Senator to bite on that bait. I will come back to it. I have been waiting for the Senator.

Mr. SMATHERS. I will stay with that bait as long as the Senator desires.

Mr. HUMPHREY. Title I of the bill was not conceived in a vacuum. It is the result of an explicit investigation which revealed the incontrovertible fact that an effort is made to deny citizens of the United States the right to vote, through denying them the opportunity to register. No lawyer, no court, no commission of the Government of the United States denies that. We have here an attempt to write protections into law that are needed, in order to eliminate consistent, determined abuses of law. The difference between the District of Columbia and certain counties in the State of Mississippi on voter registration—and I select that State because evidence shows it to be the fact——

Mr. SMATHERS. The reason why the Senator selects it is that it is the only State where this practice has existed.

Mr. HUMPHREY. It is true of Louisiana with respect to certain counties.

Mr. SMATHERS. In certain counties of Louisiana. In about seven counties throughout the Nation that is still happening.

Mr. HUMPHREY. There are six counties in the State of Mississippi, as I recall—I will obtain the facts—in which the majority of the adult population is Negro, but in which not a single Negro is registered.

Mr. SMATHERS. This is not the point that I really wish to debate. I have said that if this section were written so as to eliminate the provision under which Congress would set the voter qualifications, which I believe is unconstitutional, the section, standing by itself, would not be objectionable, and I would be glad to vote for it. However, I think it is unnecessary.

Mr. HUMPHREY. The Senator says that Congress sets the voter qualifications. It does not. What Congress says is that in national elections, when national officers are to be selected, the qualifications must be uniform. It is not right to set one literacy test for white people and another for black people.

Mr. SMATHERS. Does not the bill provide that there shall be a sixth-grade presumption, and that anyone who has a sixth-grade education is presumed to be literate?

Mr. HUMPHREY. There is created a rebuttable presumption.

Mr. SMATHERS. Does the bill so provide?

Mr. HUMPHREY. Yes.

Mr. SMATHERS. Who is putting that into the law? It is Congress, is it not?

Mr. HUMPHREY. The Congress is determining a rule of evidence for the Federal courts; if a literacy test is prescribed, the person disqualified as illiterate will, in a subsequent lawsuit, be presumed to be literate if he has completed 6 years of formal education. This rule of evidence shifts the burden of persuasion to the public official who claims the disqualified person is illiterate.

Mr. SMATHERS. That is not a presumption of law, I respectfully submit to my friend, because if that were the rule, if a sixth-grade education were to be a qualification for voting, let us do it right, and say that every one who reaches the seventh grade shall be entitled to vote. My brother has a 14-year-old daughter. Let us assume that she and all others who have finished the sixth grade are eligible to vote. If that is the qualification which the Federal Government is to set; if it is intended to set voter qualifications, and if that is the rule to be followed, that anyone who gets through the sixth grade is thereby presumed qualified to vote, why not let every junior high school child vote? Congress is trying to exercise a power that is specifically reserved to the States. All one has to do is to look at article I of the Constitution, to see that I am correct.

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

Mr. SMATHERS. I yield.

Mr. HUMPHREY. All that this title seeks to do is to provide that the voting requirements or standards for voting that are established by the States shall be applied uniformly. The literacy test is only a rule of evidence, a rebuttable presumption being created that shifts the burden of persuasion to the one who seeks to deny a person the right to vote on the ground that the person who seeks to vote is illiterate.

There is nothing in the Constitution that denies the Federal Government the right to establish what is called a rule of evidence in the Federal courts. It is not the same as the Federal Government prescribing voter qualifications. I am fully familiar with article I.

Mr. SMATHERS. I respectfully disagree.

Mr. HUMPHREY. Many lawyers agree. I do not believe the American Bar Association disagrees.

Mr. SMATHERS. I do not believe that the American Bar Association agrees.

Mr. HUMPHREY. They have not expressed any disagreement.

Mr. SMATHERS. That is why the bill should be sent to committee. Let us invite the representatives of the American Bar Association to say what they have to say. I have a strong belief that the American Bar Association would come forth with the conclusion that this is an intrusion on the part of the Federal Government into what has always been left to the States. Article I, section 2 provides that the "electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

Mr. HUMPHREY. Exactly.

Mr. SMATHERS. That is what was said in the case in 1959. The Supreme Court emphasized this very point. This is a modern court. So this section would not bother me particularly, were it not for the fact that it goes too far.

Mr. HUMPHREY. Mr. President, will the Senator yield further?

Mr. SMATHERS. I yield.

Mr. HUMPHREY. The Senator can read the provision of the Constitution dealing with the rights of citizens. It prescribes the standards and all the conditions relating to elections. But I say most respectfully that the 14th amendment to the Constitution also provides that no State shall deny any citizen life, liberty, or property without due process of law. That no State shall abridge the privileges and immunities of citizens of the United States and that no State shall deny to any person the equal protection of the laws.

Mr. SMATHERS. That is right.

Mr. HUMPHREY. The reports from the U.S. Commission on Civil Rights, and the reports from the Justice Department which will be presented in the Senate once this bill is laid before the Senate are stacked as high as this Chamber. All contain outright denials of the right to vote in thousands of cases—none of them justified. The reason why this additional law is needed is because the cases in the courts today are so far behind. Justice delayed is justice denied; and a vote delayed in an election is a vote lost. The Senator cannot deny that the evidence is replete with such cases. Does the Senator deny that there is a total absence of the establishment of the right to vote by reason of the acts of officials? Does the Senator deny that?

Mr. SMATHERS. I do not believe in destroying the rights of some people in order to give rights to other people which I think they should have, but which I admit under certain conditions have been denied them.

Mr. HUMPHREY. What rights are destroyed?

Mr. SMATHERS. I do not believe the rights of everyone should be denied by having the Federal Government take over local problems. I do not believe there should be taken from a State a right which properly belongs to it, thereby creating a greater central government in an effort to give some minority group, no matter what group it is, something which has been denied to it. I believe the Senator will agree that such situations are decreasing rather than increasing, with respect to number of occurrences.

The Senator speaks of what happened in Mississippi. But let us talk about what happened in New York City.

Mr. HUMPHREY. Yes.

Mr. SMATHERS. Let us talk about the laws on the statute books of New

York. Let us talk about whether laws will accomplish the desired result. Does not the Senator agree that of all the States in the Union there are more laws on the statute books in New York with regard to antisegregation and nondiscrimination than in any other State in the Union?

Mr. HUMPHREY. I am not familiar with all the laws of New York, but I suppose that New York, being a rather modern and up-to-date State, has a fairly good system of law.

Mr. SMATHERS. That is correct. I say to the Senator that I have seen more segregation and discrimination in New York than in any other State. There is more segregation in the city of New York than in any other place in the country.

That is my point. We can place laws on the statute books, but we are not going to make a great change in anything, because when people do not want to do something, they are not going to do it unless we are going to shackle them. I know the Senator does not want to do that, and I do not want to do it. But suppose some less kindly man than the Senator from Minnesota, or some less kindly man than the President or the Attorney General, walked in and started shackling people?

Mr. HUMPHREY. I do not say that the law answers every problem. But I do say that reasonable men are men who believe in the principle of law, rather than merely the actions of men. There are laws protecting the institution of marriage. But there are divorces and in those cases we have lost in the attempt to hold the family together.

Mr. SMATHERS. Does the Senator from Minnesota believe that we would stop it if we were to pass more laws and say, "We are going to make it even tougher for you to get a divorce"?

Mr. HUMPHREY. No, but if we were to enact adequate laws that would assist in the conciliation of marital difficulties it would help.

Mr. SMATHERS. The Senator agrees that it would not be stopped?

Mr. HUMPHREY. Not all of it.

Mr. SMATHERS. That is correct.

Mr. HUMPHREY. What I am saying to the Senator from Florida is that all we need do is treat citizens as citizens, and not as black men or white men with different degrees of citizenship.

Mr. SMATHERS. I am for it.

Mr. HUMPHREY. If the Senator is for it and he concedes that it is not being done, then he should agree to the establishment of standards so that it can be done.

Mr. SMATHERS. The standards exist, and they are inadequate in and of themselves. When the Senator spoke of the 1957 act and the 1960 act, I remember that by good friend and others of my good friends said, "This is it. When we pass this law, we are going to eliminate this evil. It is going to be all over."

Mr. HUMPHREY. To the contrary.

Mr. SMATHERS. They said, "We have a fine bill. There will be no more discrimination. Everybody will get to vote." That unfortunately was not true, and it will not be the case if we pass this particular bill, I regret to say. All we need do is to start a little crusade. We need individuals like the Senator from Minnesota who are as interested as he is in the root problems, the root questions. We need better education, better economic opportunities. Ultimately we must lift the standards of living of those citizens, not only Negro citizens, but also white citizens.

Mr. HUMPHREY. We agree thoroughly on that point.

Mr. SMATHERS. We must operate where the lowest economic standards exist. Many white people are in that area. And when we eliminate that particular problem, we shall eliminate most of the other problems.

Mr. HUMPHREY. No one would be more interested in seeing educational improvements than the Senator from Florida, the Senator from Alabama [Mr. HILL], the Senator from Minnesota, the Senator from Delaware [Mr. BOGGS] and the Senator from Hawaii [Mr. INOUYE], our distinguished Presiding Officer. Each of us who is present this evening has voted time after time for improvement in education, and for improvement in public health. I know of no Senator more interested in improvement in health than is the Senator from Alabama. We have voted for all of these programs. We have made a distinguished contribution to the health of our citizens.

Mr. SMATHERS. This is an area in which we must do more.

Mr. HUMPHREY. This is an area in which ultimately the success of what we seek will be found.

Mr. SMATHERS. Amen. That is where the ultimate solution will be found. Let us work on it.

Mr. HUMPHREY. We will work on both problems. In the meantime, there is indisputable evidence that registrars have refused to register voters. There is evidence that every trick in the book has been used to deny citizens the right to vote and that large numbers of court cases have been delayed. There is evidence that many individual citizens do not have the means to fight their cases through the courts. In all of these cases, we must find the answer.

The same persons who are required to pay taxes to the Federal Government, the State government, or the local government are denied the right to vote. The tax collector gets them, but the registrar cannot see them. All I ask is that registrars be colorblind. It should not be necessary to enact more laws to enable them to look at a Negro and say, "That is an American citizen; we will give him the same test we give the white man." If Negroes were judged in the same way as other citizens, more laws would not be needed. But that is not being done; and the Senator from Florida knows it.

I know the Senator from Florida will say that in most places the situation is different. And I could cite many areas in the Senator's own State in which commendable work has been done. He is correct when he says we ought to carry on a crusade to register voters. But we are grown men. The Senator from Florida is one of the wisest, most perceptive Members of this body. He knows of case after case in which good citizens have been denied the right to vote—in which professors having the degree of Ph. D. have been declared illiterates, based upon the way they are judged in literacy tests. Yet persons who could not find their way out of the rain have been declared literate because they are white. Such action is plain racial discrimination. We seek to eliminate it.

Mr. SMATHERS. The Senator is most kind and generous with me when he speaks about how perceptive I am. I appreciate his compliment.

Mr. HUMPHREY. The Senator from Florida is a modest man.

Mr. SMATHERS. But I am sure the Senator from Minnesota, being fair and perceptive in everything, recognizes that the number of cases of denials of the right to vote, of which he complains, is rapidly diminishing. Such cases are disappearing from the American scene. That is a fact in which we can all take great pride.

Mr. HUMPHREY. Except in a few limited areas.

Mr. SMATHERS. I do not believe that even the present Civil Rights Commission is objective. The program started with a rather objective Civil Rights Commission. But now the Commission has turned the other way. I do not believe the Senator from Minnesota will be able to show that there is an increasing denial of the right to vote anywhere.

Mr. HUMPHREY. Yes, I will, I regret to tell the Senator.

Mr. SMATHERS. It is hard for me to believe that statement, because although a time existed when there was widespread denial of the right to vote, the truth is that most of those citizens were illiterate, and many of them were white. Conditions being what they were, most of the Negro citizens and many whites were illiterate. So it was necessary to have some kind of qualifications, if it was believed there should be some standard of literacy to enable people to cast their votes.

But I do not believe that in modern times one can find many indications of an increasing disposition not to permit people to vote.

Mr. HUMPHREY. Will the Senator from Florida yield again?

The PRESIDING OFFICER (Mr. HILL in the chair). Does the Senator from Florida yield again to the Senator from Minnesota?

Mr. SMATHERS. I yield.

Mr. HUMPHREY. We shall go further into the question of whether additional law is needed in order to take care of instances in which there has been denial of the right to vote; but I ask the Senator from Florida whether he agrees with me that in certain instances and certain areas there has been a denial of the right to vote.

Mr. SMATHERS. Yes.

Mr. HUMPHREY. I agree with the Senator that we have enacted considerable law in endeavoring to get at that situation.

Mr. SMATHERS. That is correct.

Mr. HUMPHREY. But, regrettably, the law we enacted has been found insufficient in certain areas.

About 2 weeks ago I presented evidence in regard to certain counties in some of

the Southern States in which registration had decreased, rather than increased, during the past year. That evidence indicated clearly to me that there had been open denial of the right to vote, by denying people an opportunity to register.

We think this bill attacks institutional segregation and discrimination. It attacks discrimination by public officials and public bodies, and it attacks segregation by public bodies. The sphere of personal prejudices and discrimination is not affected by this bill. We hope that by education these personal prejudices will disappear. However, public bodies and institutions must assume the obligations and responsibilities of public facilities. The right to vote will not be subject to any institutional racial prejudice.

Mr. SMATHERS. Let me ask about the areas in which the Senator says that decreasing registration is found. Are not those areas of decreasing population?

Mr. HUMPHREY. I cannot say; I shall look up that situation; it may be a point. But it is still true that despite the 1957 act—which I believe was a singular advance—and despite the 1960 act, the courts find themselves with their dockets too full and with voting cases far down on the dockets.

The bill would give voting cases priority. The bill also provides that a 3-man court can be provided, so that the voting cases can more readily reach the Supreme Court, when there is a need to appeal. The bill also provides that there shall be uniformity of standards. The bill does not establish any qualifications for voting; it merely provides for equal treatment for all voters, so that if there are literacy tests, they will be equal, and will be applied equally; and if there are other voting requirements, they, too, will be applied equally.

The States set the requirements for voting; but the bill provides that they must be applied without regard to color, and they must be applied equally.

Mr. SMATHERS. Inasmuch as apparently it will not be possible to have a committee hearing held on this particular bill, I believe we probably shall have to go into some detail on that point, in the course of the debate in the Senate.

I notice that in title I, paragraph (B) provides, in part, as follows, following paragraph (2):

> 2. 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—

And so on.

Who would determine that? Would the State determine it?

Mr. HUMPHREY. The registrar must determine it and the courts would insure that his judgment in the matter was accurate.

Mr. SMATHERS. The registrar of the State?

Mr. HUMPHREY. Yes. If the individual citizen thinks he has been treated unfairly, he will have a right to appeal, and his case must be taken up quickly by the court.

Mr. SMATHERS. That is a good point, and I want to get it into the RECORD, because if we are making legislative history, this RECORD becomes important. In other words, the Senator agrees, as I understand, that at the point in the bill where it is provided that no citizen is to be denied certain rights, the meaning is that the State—not the Federal authorities — shall determine whether there has been an error or an omission. Does the Senator from Minnesota agree?

Mr. HUMPHREY. However, it is crystal clear that the citizen is a citizen of the United States; and that if a State makes a determination that is discriminatory, that person may take his case to court; or the Attorney General may take it to court for him.

Mr. SMATHERS. Then who would decide whether the State had been discriminatory?

Mr. HUMPHREY. The Federal court would decide that.

Mr. SMATHERS. Is that where the Attorney General would select his own judges?

Mr. HUMPHREY. No; the bill does not provide for that, at all.

Mr. SMATHERS. But the bill would authorize that to be done.

I want people to vote; but I think this section is very badly conceived. I know of no other instance in judicial proceedings in which the senior circuit judge is authorized to do that, on motion of the Attorney General, who would say, "I want a three-judge court appointed to hear this case." The chief judge of the circuit would then select one judge, who probably in the first instance—I regret to say—had been appointed by the Attorney General, as a practical matter.

Mr. HUMPHREY. No; not at all.

Mr. SMATHERS. But I believe approval from the Department of Justice and from the Attorney General is always obtained before a judge is appointed. Does the Senator from Minnesota know of any exception?

Mr. HUMPHREY. But many judges live a long time, whereas the present Attorney General has not been in office very long.

Mr. SMATHERS. I realize that; but judges are being appointed quite regularly; and all he would have to do would be to hunt all around the circuit—and the fifth circuit includes six or seven States, stretching from Florida all the way to Texas—and he could find judges who would be satisfactory to him, and thus he could say, "Take this one and take that one." I do not think that would be a very fair American type of proceeding.

Mr. HUMPHREY. I ask the Senator from Florida to wait a moment. He is a good lawyer, and he does not need to cast any aspersion on Federal judges.

Mr. SMATHERS. No; but it would only be necessary to read the judges' decisions, and thus one would know how they would rule in these cases. In other words, that could be determined in advance.

Mr. HUMPHREY. But they are required to uphold the Constitution.

Mr. SMATHERS. However, they differ in their rulings and in their judgment on matters of interpretation. That is why it finally is necessary to appeal to the Supreme Court in certain cases.

So if it were possible to hunt around the circuit, and find a judge who had been ruling a certain way, it could be said, "We will take you, because we know how your decisions have been running." And then they could pick another judge and say, "We will take you, and now we know we have a majority on our side."

Mr. HUMPHREY. But, first, one of the judges must be from the district in which the citizen who has the grievance resides; and the selection of the judges is made solely by the chief judge of the circuit in which the suit is commenced.

Mr. SMATHERS. Yes.

Mr. HUMPHREY. And the chief judge of the circuit generally is of so fine a reputation that I do not believe any reflection should be cast upon his reputation. Furthermore, I do not believe there is evidence to show that the courts of the United States are prejudicial. Also, there is ample precedent for the appointment of a three-judge court. Section 44 of title 49 and section 28 of title 15 of the United States Code, for example, provide that in certain transportation or antitrust suits in which the United States is plaintiff, the Attorney General may file with the court a certificate seeking the appointment of a three-judge court and expedition of the case. When that is done, the certificate is sent to the chief judge of the circuit, and it is made the duty of the chief judge to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge, to hear and determine the case. It is made the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause this case to be in every way expedited. Thus, the three-judge provision in title I is quite similar to the examples given.

So appointment of a three-judge court, as set forth in title I, is supported by solid American precedent. It has precedent in some of the most important cases in U.S. law—cases relating to transportation and to the antitrust laws. If that can be done to protect transportation facilities and to protect American business, why cannot a three-judge court be appointed to do exactly the same thing for American voters?

Mr. SMATHERS. I do not believe that it has ever been done in a case involving personal rights. I do not know of any. I am a lawyer, but I have not practiced law in approximately 20 years.

Mr. HUMPHREY. The Senator is a good lawyer. He may have forgotten that little piece of law.

Mr. SMATHERS. When was that done with respect to transportation? Ask that fellow with a red pencil sticking out of his shirt.

Mr. HUMPHREY. I do not know when it was done. It was done recently.

Mr. SMATHERS. That is what I thought. The distinguished occupant of

the Chair [Mr. DODD] could probably tell us more correctly. He is a member of the Committee on the Judiciary.

Mr. HUMPHREY. I believe it was done in about 1958 or 1959.

Mr. SMATHERS. It was a recent development.

Mr. HUMPHREY. We are beginning to catch up in human rights with what we have had in relation to property rights.

Mr. SMATHERS. I do not believe that the argument is one between human rights and property rights. I do not believe property has any rights. I wish the Senator to listen to what I am about to say.

Mr. HUMPHREY. I am listening.

Mr. SMATHERS. I do not believe that property as such has any rights, but humans have rights. One of the rights that a human has is the right to own property. Owning it, a human has the right to do with it what he wishes.

Mr. HUMPHREY. Provided that what he does would not injure the public interest.

Mr. SMATHERS. Again that is a matter of judgment. Shall we give to the Attorney General the power to determine when an action would be against the the public interest and when it would be in the public interest? So far as I am concerned, the issue is not one between human rights and property rights, but rather whether humans may own property; and owning it, whether they can control it.

Mr. HUMPHREY. The problem is serious. I do not wish to put it on the basis of slogans or symbols.

Mr. SMATHERS. The Senator is correct.

Mr. HUMPHREY. I do not believe that should be done.

Mr. SMATHERS. The Senator has said that we shall advance human rights. I know people who have worked hard. They have saved their pennies. Finally they bought themselves a little place. They are at liberty to choose to work for them a certain kind of people only.

In a case in 1963, Justice Harlan—and I certainly approve of his decisions, if not the decisions of some of the others—said that people have the right of choice. People have the right to be wrong sometimes, if it is their own judgment.

I should like to read to the Senator an editorial that was written by a distinguished editor named John S. Knight, who owns the Miami Herald and several other newspapers.

Mr. HUMPHREY. I believe I saw that editorial this weekend.

Mr. SMATHERS. That is correct. I do not agree with everything that is contained in the editorial, because in the editorial Mr. Knight states that he approves of the public accommodations provision. He thinks it would be right morally and legally. I think he may be right morally, but I do not think he is right legally.

At any rate, Mr. Knight has discussed the proposed Equal Employment Opportunity Commission. He tells about a case which is quite interesting. He said—

I am puzzled, however, by the seeming lack of interest in another section of the civil rights bill which, in seeking to broaden job opportunities for Negroes, does at the same time severely limit the freedom of employers, labor unions and employment agencies.

This is the section which would establish an Equal Employment Opportunity Commission, a new Federal agency empowered to police their hiring, firing, and advancement practices.

The EEOC, with headquarters in Washington and field offices in all areas of the country will have authority to take legal action against alleged violators if the following proposals are enacted into law:

1. Employers may not deny jobs to Negroes because of race.

2. If a Negro is discharged, the employer must prove the dismissal has nothing to do with race.

3. When promotions and pay increases are given, the employer must show the absence of bias.

4. Government inspectors can examine a firm's records in search of bias. Officials and workers may be questioned.

I wish to repeat the first part of 4:

4. Government inspectors can examine a firm's records in search of bias.

Apparently they do that all the time. Continuing—

5. The new bureaucracy can tell employers what kind of employment records to keep.

I believe it would be agreed that most of our citizens who are trying to operate a business are harassed already by Federal bureaucracy telling them what they can do and what they cannot do.

Mr. Knight continues—

In the event that the EEOC finds neglect of these and other related provisions of the law, the Commission can file a civil suit in Federal court against the employer, union, or employment agency accused of the violations.

If the court agrees with the EEOC, the employer can be ordered to (a) change his employment practices; (b) hire an individual who was turned down, or reinstate a discharged worker with back pay.

Failure to comply with the court's order will bring contempt charges, punishable by fines and possible imprisonment.

Even enlightened employers who do not discriminate in hiring and personnel policies must produce records and be able to prove their innocence.

In other words, the burden of proof would be shifted in many respects to one who operates his own business. The businessman would have to prove that there is no discrimination in his mind and that he did not discriminate against anyone. He has the burden of proof.

I continue to read from the editorial—

In some instances, the employer is not permitted to turn down women applicants for jobs unless he can convince the Government that men are needed in these particular tasks.

Mr. Knight continues—

I am quite aware that many well-meaning people justify these extreme measures as the means to a desirable end.

First, I wish to persuade the Senator from Minnesota to agree with me that he has great respect for John S. Knight.

Mr. HUMPHREY. I have.

Mr. SMATHERS. Mr. Knight is a very objective and sound citizen, in addition to being a very fine publisher. I do not always agree with him. I do not always agree with the manner in which he operates his newspaper.

Mr. HUMPHREY. I read that editorial to which the Senator has referred. It appeared in the Detroit Free Press, which I believe is one of the Knight papers. That editorial made a definite impression on me. It necessitates a very careful examination in the debate of the particular section about which the Senator is speaking, because if everything Mr. Knight has stated in that editorial is true—if his conclusions can be fully substantiated—that particular section could be a very bothersome section and it might be an undesirable section. I do not happen to believe that all the points which Mr. Knight seeks to make are to be found or justified in the bill. I shall speak on this subject on my own time when the opportunity arrives.

Mr. SMATHERS. I shall finish reading the editorial because, judging from the amicable manner in which the Senator from Minnesota has responded to my inquiry, since he is always a reasonable and fairminded man, it may be possible to amend the bill. I believe the Senator would probably not object to an amendment of that section or its elimination.

Mr. HUMPHREY. I ask the Senator not to keep that hope too bright.

Mr. SMATHERS. I continue to read from the editorial:

But the piling on of Federal regulations to bring about equal opportunity is in basic conflict with our American concept of individual freedom.

I am sure the Senator from Minnesota agrees with that statement. He is not trying to drag everyone down in the efforts to give certain rights.

Mr. HUMPHREY. I am not for pulling anyone down. I am trying to help to enact a law which would help some people to get up.

Mr. SMATHERS. But the danger is that in helping some to get up, we might pull everyone else down. We desire to leave to people the right of choice, the right to be free, and the right to do the things free enterprise has always stood for, and to have the opportunities which free enterprise has always made available. We do not wish to destroy that freedom in an effort to give an opportunity to some to get up.

Continuing to quote—

As Justice Whittaker, a former member of the U.S. Supreme Court, has said: "Democracy, as a system of government, was never intended to be a leveler of men. It permits, and was intended to permit, the gifted, the energetic, the creative, and the thrifty * * * to rise above the masses.

"If men really want permanent economic equality," continues Justice Whittaker, "they may find it only in communism, for such is the central theme of that philosophy. Generally men who are free do not remain economically equal, and men who remain economically equal are not free."

The writer states a case history:

A CASE HISTORY

A foretaste of what will occur if the EEOC is created by Federal law was shown recently by a ruling made in Illinois.

In this case the employer (Motorola) gave general ability tests to all prospective job applicants. A Negro who failed the test charged that he was denied employment because of his race.

The Illinois FEPC then gave a reexamination to the applicant, said that he passed the test, and ordered the corporation to hire him. An FEPC examiner held that Motorola's test was unfair "to culturally deprived and disadvantaged groups."

Whatever that means. Coming from the South, I sometimes felt, because of the way we were treated, that perhaps we were considered "culturally deprived."

Mr. HUMPHREY. As one who comes from the Midwest, I have great sympathy for the South.

Mr. SMATHERS. I thank the Senator. We both stand in a status where we might both seem to some to be disadvantaged and culturally deprived.

To repeat, the FEPC examiner found it was unfair to these culturally deprived and disadvantaged groups.

I continue with the quotation:

That the questions did not take into account "inequalities and differences in environment"; and that the standards for passing were based only on those of "advantaged groups."

In other words, merit and ability and Motorola's standards of performance were cast aside and the employer lost his "rights." This case, which is now pending before the full commission, has created quite a furor in Illinois, and the warning is clear.

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

Mr. SMATHERS. I yield.

Mr. HUMPHREY. I am interested in this case, because I am disturbed about it. I try to be fair with my colleagues——

Mr. SMATHERS. I think the Senator is fair with his colleagues.

Mr. HUMPHREY. I understand the case is proceeding only at the hearing examiner stage.

Mr. SMATHERS. I do not know. It is the first time I have read about the case. It is before the full commission.

Mr. HUMPHREY. And is subject to appeal in the courts.

Mr. SMATHERS. Does the Senator agree that this is the danger when we get into the question of whether or not a man has discrimination in his heart? Let us consider the case of an employer who perhaps has only Methodists working for him. He says, "I am a Methodist and I like Methodists working for me." Someone comes in and asks for a job. The employer says, "No. Hold on here. I want only one kind of people." This applicant files a complaint and says, "This man discriminated against me because of my religion."

I know exceptions are provided for religious institutions, but this is a case where the employer happens to be a Methodist but not a religious institution. The Senator and I would not go that far in preferring members of our own denomination, but there are people like that. Should not this man have the right to employ only Methodists? Does he have to take on an Episcopalian or a Lutheran, or someone of a different religion, if he does not wish to do so? According to the proposed law, he will, because there is no other basis for such a practice to be called anything but discrimination, because he happens to like one group better than another.

Mr. HUMPHREY. The Senator is absolutely correct in his description of what would happen. The proposed law seeks to prevent the factor of race, creed, or national origin from being a factor in determining employment.

An employer is not to discriminate on that basis. He is to hire on the basis of merit.

The hearing examiner's decision in the Motorola case disturbs me. I am anxious to see what happens in terms of the full commission. If the commission decides a certain way, undoubtedly it will be appealed, and we can then see what happens in the court.

I have had a little experience in this area. I have heard Members from the South say that some of us northerners have not had much experience in this field. I grant there is some truth to that statement, but when I was mayor of Minneapolis, Minn., there was a large number of colored people there——

Mr. SMATHERS. Less than 1 percent.

Mr. HUMPHREY. Yes, but we had 26,000.

Mr. SMATHERS. In the whole State?

Mr. HUMPHREY. In the city of Minneapolis. We had other ethnic groups. There is an Indian population there. I regret to say that my city at one time had a considerable bias against those of the Jewish faith. Thank goodness, that is over.

We established what we called the Municipal Fair Employment Practices Commission. It was the first one in the Nation. I offered that bill to our city council. We put it into effect. It included enforcement power. I watched that commission work. Frankly, it has not corrected all instances of discrimination in employment, but the cases which were brought—with the exception of seven since 1947—have resulted in amicable settlements, wherein the employer and employee, or the union and the employee and the employer, were able to get together and adjust their difficulties.

I can honestly say that the employment pattern is better today. There are certain instances in which race is a factor in employment. I want to make it crystal clear that I do not believe that, because a man has had bad luck early in life, he should automatically be given a job if a company has certain standards for that job. People can go too far in these cases. If there are to be standards that are nondiscriminatory, that is exactly what they should be. There should not be swept into the question many outside issues, such as whether or not one has been culturally deprived. A company needs a certain number of people to do the job. The job must be done properly. The culturally deprived are given an opportunity to catch up.

Mr. SMATHERS. But not necessarily in this man's factory.

Mr. HUMPHREY. But not necessarily in this man's factory.

Mr. SMATHERS. That is correct. I congratulate the Senator from Minnesota on what he accomplished when he was mayor of Minneapolis, because that is the way such problems should be handled. The local community should get together under the leadership of a dynamic and aggressive mayor, which undoubtedly this great man was——

Mr. HUMPHREY. I agree with the Senator.

Mr. SMATHERS. I would even go to Minnesota and say it, but if I did, it would probably hurt the Senator.

Mr. HUMPHREY. Not at all.

Mr. SMATHERS. That is the way the problem should be handled. The leaders of a community should get together and say, "We do not want this to happen." I do not know what kind of law was enacted, but I venture to say that the whole weight of the Attorney General was not thrown against those who were found guilty, and contempt proceedings were not brought against them. Perhaps they never went to jail.

Mr. HUMPHREY. They could have, but they had more sense.

Mr. SMATHERS. As mayor, the Senator probably brought them together around a table to discuss the problem. The employer probably was told, "There is no point in discrimination. One person has no right over another because of a difference in color."

I agree. I do not know of anyone who chose the color with which he was born. I did not have anything to say about my color, and I would not want to be discriminated against if I had been born of a different color. I would not want to be discriminated against if I had been born into a family that practiced a different religion than I do. That kind of discrimination should not take place. There are two ways to get around that kind of discrimination: First, under the 14th amendment; and, second, under the general protection that is provided already by our laws.

The courts are generally open for the protection of the rights of citizens wherever there is discrimination by action of States, or municipalities. But when we are dealing with private citizens, we may find a man who practices discrimination. For example, he may not like to hire Puerto Ricans. I do not share such discrimination, because I happen to like Latin Americans, but I know many people in New York City who do not like them and will not hire them. The question is, if a man has a store or a factory which he has worked and sacrificed to acquire, whether or not the Federal Government should be brought into the case. Should we let the Attorney General, with all the majesty and power of the Federal Government, move in against a man and say, "Wait a minute. There has been a claim of discrimination."

I say that in a case like that, where one tells a private citizen whom he must hire and brings him into court and fines him $300, or lets him go to jail for 45 days, from that time on that man will avoid such conflict with the Federal Government. Every time someone comes to him he will start operating a quota system, saying, "I must have so many Puerto Ricans, so many Negroes, so many people of the Jewish faith. I must do this or else."

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

The PRESIDING OFFICER (Mr. DODD in the chair). Does the Senator from Florida yield to the Senator from Minnesota?

Mr. SMATHERS. I will yield in a moment. This policy is dangerous. I believe the bill should not allow it. We say that people should not be discriminated against, that they should have rights and an opportunity to work, but in trying to give them their rights, let us not take away from other people their right of choice, their right to employ whom they wish to employ, their right to operate their businesses in the way they wish to operate them.

I yield to the Senator from Minnesota.

Mr. HUMPHREY. The Senator is persuasive, and he makes a powerful argument; but, first of all, the Senator is in error when he says that the Attorney General may come in on these cases and do as he wishes. The Equal Employment Opportunities Commission would be established. The Commission would not go snooping around. The Commission must receive from a person who believes he has been discriminated against a written complaint. There would be a preliminary hearing. I read from page 40 of the bill:

> If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agrees to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.
>
> (b) If the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title, the Commission, if it determines there is reasonable cause to believe the respondent has engaged in, or is engaging in, an unlawful employment practice, shall, within ninety days, bring a civil action—

Not criminal, I point out to the Senator.

> to prevent the respondent from engaging in such unlawful employment practice, except that the Commission shall be relieved of any obligation to bring a civil action in any case in which the Commission has, by affirmative vote, determined that the bringing of a civil action would not serve the public interest.

There is no enforced quota. The quota system which has been discussed is nonsense. Everyone knows that it is not in the bill, and that where there are State FEPC quotas, it is not the pattern.

There would be no Attorney General referred to in the bill with the powers of the Federal Government to smack down some poor, unsuspecting employer. No criminal penalty would be provided. There would be only a civil suit, and it must go to a Federal court. All the procedures of law must be followed, and all the rules of evidence must be followed. The only thing that the court would do would be to ask the defendant to cease and desist, to tell him to stop this practice, if it can be proved that the practice has been unlawful.

This particular section of the bill is so close to what the late Robert Taft offered in the Senate in 1949 that I have almost felt as though we should call it "the Taft proposal," because it would be essentially a fair employment practices proposal. The only enforcement would be the enforcement procedure which a citizen would have, anyway, to go into a Federal court. But one cannot enforce a section and take the case to court to find out if there is any need of evidence to require it to go to court.

Mr. SMATHERS. The Senator has explained this provision in its most favorable light.

Mr. HUMPHREY. Oh, no; I have not gotten around to that yet.

Mr. SMATHERS. The Senator has failed to refer to the bringing of civil action. It is not said that a criminal action is involved.

Mr. HUMPHREY. No.

Mr. SMATHERS. What happens when an order is issued to take affirmative action, including reinstatement of employees, and when the respondent says, "I do not wish to do it?"

Mr. HUMPHREY. He is held in contempt of court.

Mr. SMATHERS. Yes, he is held in contempt of court. Then he can go to jail. He can also be fined $300. He can go to jail, without a trial by jury. But, of course, a civil action is brought on the equity side in order to get around the difficulty, because if a criminal case were brought, then under the sixth amendment he would have to be given a trial by jury. The case is brought in under the equity side of the law.

Mr. HUMPHREY. The Senator does not wish to recommend criminal penalties, does he?

Mr. SMATHERS. No. I recommend against the whole section. But I would not wish the Senator to have people believe that this is a sweet, voluntary, lovely, nice little patty-cake arrangement, The thing that can happen to a defendant is that he may receive a $300 fine or go to jail for 45 days without a trial by jury. It is said that there is no quota system. But if by refusing to hire a prospective employee he is going to run the risk of going to jail, they do not have to ask him any more about that. The first time a prospective employee of a particular type comes in the employer says, "If he looks like a troublemaker, perhaps I had better put him on."

This is what is happening, and what John Knight is talking about. That is why the proposal is dangerous. I meant to finish reading the column. In any event this is what happens. It is not the sweet, lovely, voluntary program that the Senator from Minnesota would have us believe it is. There are hidden dangers in it. An appropriation authorization of $10 million is proposed. Employers are required to keep records over a number of years to show whether bias exists. So what will happen—if you do not have some employees of a particular faith, or some employees of a particular color, the presumption may be that you must be biased, so immediately you start by defending yourself. The burden of proof is on you, not on the Federal Government. The Federal Government will have $10 million to spend this year. Perhaps it will be $20 million next year, and heaven knows how many investigators there will finally be, sitting around in every factory. I say this proposal is dangerous. I do not wish to sound like an alarmist, but this is the kind of thing that leads to a totalitarian state. It is not good law. It is not good in its conception.

I agree with what the Senator did when he was back in his own community in Minneapolis, in getting people together. I do not believe we should give the Federal Government such power as is proposed in this bill.

Mr. HUMPHREY. Will the Senator from Florida yield further before he finishes reading the remainder of the editorial, which represents one editor's and publisher's point of view, and does not represent the law?

Mr. SMATHERS. I yield, but this does not——

Mr. HUMPHREY. It represents the point of view of a distinguished American citizen. I believe that the editorial should be placed in the RECORD. It bothered me when I read it. I wish to examine one section with meticulous care. That is why I am asking these questions and engaging the Senator in debate. He is much better when he is tested a little. I find that I occasionally perform a useful role in the Senate by acting as a sort of senatorial "gadfly" and stinging my colleagues into greater intellectual activity.

At this moment I am having a good time. The Senator's estimate of the budget amount for the equal employment opportunity section is off by about $6 million. Mr. Katzenbach, the Deputy Attorney General, in a letter to Hon. EMANUEL CELLER, chairman of the Judiciary Committee of the House of Representatives on February 6, 1964, estimates that the total for the equal employment opportunity section to be $3,800,000. This is the first year. The total authorization, which is a far cry from what we get—because an authorization is to make happy those who want more, and the appropriation is to make happier those who want less—is $3,800,000.

Mr. SMATHERS. Very well. I wish to read from the bill. What the Senator has read is the estimate of Mr. Katzenbach for the first year. We all know how Government agencies start, with the exception of the foreign aid program, which we have been cutting back a little. The Senator does not know, in his experience, of more than one or two instances in which that situation does not prevail. The pattern is that the agencies start by asking for $2,500,000; the next year they ask for $5 million; and the following year they ask for $10 million. That is the way it goes. That is one of the reasons why the cost of Government has reached astronomical figures. It is because every little department wants more money each year.

The bill provides:

There is hereby authorized to be appropriated not to exceed $2,500,000 for the administration of this title by the Commission during the first year after its enactment, and not to exceed $10 million for such purpose during the second year after such date.

They will ask for $10 million in the second year. We can be sure that they will ask for that. The chances are that if it takes only 51 votes in the Senate to get that amount for them, the third year will see them asking for as much as $30 million, if they follow the pattern that is usually followed by such agencies. For example, consider the Civil Rights Commission.

Mr. HUMPHREY. The Appropriations Committee has among its membership such illustrious Senators as the senior Senator from Arizona [Mr. HAYDEN], the senior Senator from Georgia [Mr. RUSSELL], the senior Senator from Florida [Mr. HOLLAND], the senior Senator from Alabama [Mr. HILL], the senior Senator from North Dakota [Mr. YOUNG], the senior Senator from Arkansas [Mr. MCCLELLAN], the junior Senator from Virginia [Mr. ROBERTSON], and the distinguished junior Senator from Mississippi [Mr. STENNIS].

Mr. SMATHERS. And the distinguished Senator from Minnesota, Mr. HUBERT HUMPHREY. I did not want the Senator to be left out.

Mr. HUMPHREY. I was about to get in, but I wanted to name the senior members of the committee first. I do not believe that there will be any great rush through the Appropriations Committee process to vastly extend the operations of this Commission about which the Senator is worried. I will let him continue with his speech for awhile.

Mr. SMATHERS. I enjoy these little conversations with the Senator. Sometimes he is so busy performing the many duties he must perform as the whip that he does not have an opportunity to talk with me. Therefore, I appreciate the opportunity to carry on this little conversation with him in a spirit of friendliness and in a spirit of developing facts with respect to the bill.

Mr. HUMPHREY. Whenever I am so busy that I do not have time to talk to the Senator from Florida, I am the loser.

Mr. SMATHERS. I cannot agree with the Senator. When that happens, it is not his loss, but my loss. I have the greatest affection for the Senator from Minnesota and the highest respect for him. We are usually on the same side.

Mr. HUMPHREY. I expect to convince the Senator before this debate is over.

Mr. SMATHERS. I do not want the Senator from Minnesota to hold his breath until that happens.

The editorial states:

If a State commission can riddle good management practices in the cause of "social significance," you can visualize the degree to which employers and unions will be shackled by a horde of inspectors operating under Federal law.

Let us remember that we are operating in our society under a free enterprise system. It is the free enterprise system which distinguishes us from any other system of government on earth.

The other evening, when the President of the United States was delivering his address over all three networks, CBS, NBC, and ABC, I recall his saying that the Soviet Union may have more people, and more resources—and I think he mentioned one other factor in which the Soviet Union was apparently more favorably situated than we were—but he said there is one thing that we have which makes us superior to them in every respect—and this was the President of the United States speaking—and that is the free enterprise system.

That is what has made America great. That is what will keep America great. That is what we mean by the free enterprise system. It means that a man has some rights as to what he will do with his money and his business, and whom he will hire. It means that a man who has built up a little business can hire the kind of people he wants to have work for him, and that he must not be required to keep records for this agency and the other agency, and to be worried to death, when a Negro citizen shows up, as to whether he might not be accused of discriminating and perhaps be hauled into court and put in jail. He should be free to employ the man he thinks can do the best job for him.

I remember when the Attorney General's Office was picketed downtown. The claim was made that the Department of Justice had not hired a sufficient number of Negro employees. He was quite angry, and he got on the back of a truck, as I remember, and said, "I will not hire anyone because of his color. I will not refuse to hire anyone because of his color. I will hire a man on the basis of ability."

Does the bill so provide? Does the bill provide that a person can hire another person on the basis of his ability?

The bill provides that a person cannot refuse to hire on the basis of race, color, or religion, which means the reverse of that; it means that every time a person hires any employee, he must worry whether he will be charged with having discriminated against another applicant. In such a case, what does a person do to protect himself? It means that a person might not hire the best man to do the job.

That is what this editorial refers to when it states:

If a State commission can riddle good management practices in the cause of "social significance," you can visualize the degree to which employers and unions will be shackled by a horde of inspectors operating under Federal law.

The bill provides that if an employer wishes to promote, for example, No. 3 man, who has a great deal of ability, and No. 2 man does not have quite as much ability, he will be unable to promote No. 3 man because No. 2 man may say, "Wait a minute, you are doing it because of my race or my color or my creed."

What does the employer do? He is put on the defensive. He says, "I will not promote No. 3, even though he is a better man."

Therefore, the process interferes with employment practices and interferes with an employer's getting the top man. It interferes with ability. What has made our country great is ability.

The editorial states:

If a State commission can riddle good management practices in the cause of "social significance," you can visualize the degree to which employers and unions will be shackled by a horde of inspectors operating under Federal law.

Consider for a moment what this proposal would do to the seniority systems of unions and other organizations. Suppose a job opens up. What happens? It is in an area where there it not too much employment. Now, under a seniority system the senior man of three men would be chosen. But suppose this title becomes law and there is a man down the line who says, "Those three are white men, and you have not taken any of us Negroes." So the employer would have to take one of the others, and thus destroy the seniority system. That is what the bill would do.

Talk about proposing to do a little social justice: I am afraid this particular section would be one of the most dangerous that this Congress or any other Congress has ever considered in the history of the Nation.

Mr. Knight continues:

Let no one be deceived by the claim that the Equal Employment Opportunity Commission will be a toothless agency, or that enforcement will be less zealous or vigorous once the presidential election is over.

The civil rights bill now under consideration is a tough law. It can be used by well organized and amply financed Negro groups to harass business and industry suspected of unfair practices.

It discriminates against the best workers by attempting to bring all down to a common level.

The EEOC provision is dangerous to free competition; it stifles initiative; it negates freedom of action and it dilutes the American concept of advancement to the best qualified.

DOWN THE ROAD?

As stated previously, I see no valid reason for refusing public accommodations to a Negro, or to a man or woman of any other color who observes normal and acceptable standards of conduct.

Neither do I, even though I do not believe a law is needed which violates another guarantee of the Constitution in order to obtain such a right.

Mr. Knight continues:

But there is great peril in the police state methods under which the EEOC would be authorized to operate.

For this is not freedom but tyranny, and the exercise of discrimination in reverse.

Surely, there are better ways to cope with discrimination in employment than for the Federal Government to forge chains for one segment of our society while pleading the need of more freedom for another.

To again quote Justice Whittaker: "Those who would seek to solve our problems through socialistic process, rather than democratic ones, are heading down the road to darkness."

Mr. President, I ask unanimous consent that the entire editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, Mar. 22, 1964]

DISCRIMINATION IN REVERSE—EQUAL JOBS LEGISLATION WRONGS A RIGHT

Most of the southern and other spirited opposition to the civil rights legislation now before the U.S. Senate is based upon the public accommodations section.

This clause would forbid discrimination against Negroes in restaurants, hotels, theaters, and all places of business normally open to the general public.

It is my personal view that commercial enterprises which seek business through advertising or other means have no moral or legal right to deny service to a prospective and orderly customer of any color.

In fact, Congress passed just such a law back in 1875. Its constitutionality was attacked in 1883 and after full hearing, the Supreme Court decided it was violative of the Constitution on the ground that Congress sought "to establish a code of municipal law regulative of all private rights between man and man in society."

And so, unquestionably, any new civil rights legislation may have to survive the constitutionality test, but in modern times and under vastly changed conditions.

BOSS FOR BUSINESS

I am puzzled, however, by the seeming lack of interest in another section of the civil rights bill which, in seeking to broaden job opportunities for Negroes, does at the same time severely limit the freedom of employers, labor unions, and employment agencies.

This is the section which would establish an Equal Employment Opportunity Commission, a new Federal agency empowered to police their hiring, firing, and advancement practices.

The EEOC, with headquarters in Washington and field offices in all areas of the country, will have authority to take legal action against alleged violators if the following proposals are enacted into law:

1. Employers may not deny jobs to Negroes because of race.

2. If a Negro is discharged, the employer must prove the dismissal has nothing to do with race.

3. When promotions and pay increases are given, the employer must show the absence of bias.

4. Government inspectors can examine a firm's records in search of bias. Officials and workers may be questioned.

5. The new bureaucracy can tell employers what kind of employment records to keep.

AND DISCIPLINE

In the event that the EEOC finds neglect of these and other related provisions of the law, the Commission can file a civil suit in Federal court against the employer, union, or employment agency accused of the violations.

If the court agrees with the EEOC, the employer can be ordered to (a) change his employment practices; (b) hire an individual who was turned down, or reinstate a discharged worker with back pay.

Failure to comply with the court's order will bring contempt charges, punishable by fines and possible imprisonment.

Even enlightened employers who do not discriminate in hiring and personnel policies must produce records and be able to prove their innocence.

In some instances, the employer is not permitted to turn down women applicants for jobs unless he can convince the Government that men are needed in these particular tasks.

FREE OR UNEASY?

I am quite aware that many well-meaning people justify these extreme measures as the means to a desired end.

But the piling on of Federal regulations to bring about equal opportunity is in basic conflict with our American concept of individual freedom.

As Justice Whittaker, a former member of the U.S. Supreme Court, has said: "Democracy, as a system of government, was never intended to be a leveler of men. It permits, and was intended to permit, the gifted, the energetic, the creative and the thrifty * * * to rise above the masses.

"If men really want permanent economic equality," continues Justice Whittaker, "they may find it only in communism, for such is the central theme of that philosophy. Generally men who are free do not remain economically equal, and men who remain economically equal are not free."

A CASE HISTORY

A foretaste of what will occur if the EEOC is created by Federal law was shown recently by a ruling made in Illinois.

In this case the employer (Motorola) gave general ability tests to all prospective job applicants. A Negro who failed the test charged that he was denied employment because of his race.

The Illinois FEPC then gave a reexamination to the applicant, said that he passed the test and ordered the corporation to hire him. An FEPC examiner held that Motorola's test was unfair to "culturally deprived and disadvantaged groups"; that the questions did not take into account "inequalities and differences in environment"; and that the standards for passing were based on those of "advantaged groups."

In other words, merit and ability and Motorola's standards of performance were cast aside and the employer lost his "rights." This case, which is now pending before the full Commission, has created quite a furor in Illinois, and the warning is clear.

TOUGH, DANGEROUS

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To again quote Justice Whittaker: "Those who would seek to solve our problems through socialistic processes, rather than democratic ones, are heading down the road to darkness."

Mr. SMATHERS. Mr. President, I shall return to my speech, following the delightful excursion with the able, charming, and challenging senior Senator from Minnesota [Mr. HUMPHREY]. I was speaking at the time about the failure to follow the rules. I should like to read into the RECORD at this point an interesting commentary on this point. I am sorry I did not do so while the able Senator from Minnesota was in the Chamber. Many times an argument has arisen as to whether the Senate should conduct extended discussions of this type. Soon an attempt will be made to cut off debate by voting cloture. One of the most respected columnists I have ever read or of whom I know is Mr. Walter Lippmann. I do not believe that by any classification one could say that Mr. Lippmann is a strong reactionary or an overzealous conservative. I have been reading Walter Lippmann since my college days. It has been my observation over the years that he has been as sound a man as I have ever read. Were I ever privileged to hold a high and exalted position, in which I had to make decisions on numerous matters, there is no doubt in my mind at this moment, and I do not believe there would be then, that I would call upon Mr. Lippmann and his exceptional talents for perception and wise judgment. I would call upon him frequently to advise me. I know that Presidents have done that. I have personal knowledge of some Presidents who have talked with him about matters of the day.

As we move into the debate on the bill, we might get some light and learning from Mr. Walter Lippmann and what he has said as to whether the Senate should have full and free, and sometimes even lengthy, discussions—even filibusters, if that is what it is desired to call them—on questions of great importance to a region, to an area, or to a group of people.

A book entitled "The Essential Lippmann" has been compiled by Clinton Rossiter and James Lare, and published by Random House, not too long ago. I obtained a copy, because I am interested in Mr. Lippmann's writings. The book contains a chapter entitled "The Tensions of Constitutionalism." I wish to read what Mr. Lippmann said at one time in his column entitled "Today and Tomorrow." Actually, the book is a compendium of statements and speeches Mr. Lippmann has made, including many of the columns he has written over the course of many years. In a section entitled "The Uses of Constitutionalism," Mr. Lippmann wrote:

THE USES OF CONSTITUTIONALISM

("The Democracy," Today and Tomorrow, November 26, 1936. The angry reaction to the Supreme Court's nullification of critical parts of the New Deal program offered Lippmann an opportunity to examine the significance of constitutionalism in a democracy.)

Through all the comment it is implied, and apparently never questioned, that the American Government would be more progressive, more democratic, and more liberal if the courts ceased to interfere with Congress and the State legislatures.

Thus the whole argument assumes that in one way or another the lawmakers ought to have a freer hand, in fact that any temporary majority of elected representatives ought to be able to make the law of the land.

This assumption needs to be examined for it is altogether opposed to the spirit of American constitutional democracy. In Britain, Parliament is supreme and in theory anything can be done by the act of any Parliament. In theory Parliament can abolish the monarchy, the House of Lords, the courts, the civil service, private property, civil liberty. Actually these things are not likely to be done because custom and usage are powerful restraints upon the supremacy of Parliament. But the authors of the American Constitution were establishing a government for a new nation, for a nation in the making, for a nation without a strong and well-defined unwritten law. And being men of great insight into the art of government, they set up a constitution intended by its own provisions to do what the unwritten law does in England.

I hope that Senators who, I regret to say, are not now in the Chamber in great numbers, will perhaps read in the RECORD tomorrow what Mr. Lippmann has written. At least, I should like to think that they will do so.

They made a constitution which deliberately denies that the opinion of a temporary majority is to be regarded as the will of the people. The ultimate authority, of course, is in "the people." But the will of the people is not confused with the opinions of 51 percent of the votes at any particular election. Therefore the whole American system is devised to see to it that in fundamental matters affecting the liberties and the property of individuals, and the rights of local communities, the will of the people shall be thoroughly known before great changes are finally adopted. The authors of the Constitution were interested not only in what 250 Congressmen think ought to be done, not only in what 51 percent of the voters think they think on election day, but in what these politicians and voters will think when they have cooled off and learned more. The founders were equally interested in the 49 percent, and they meant to see to it that before anything final and radical was done, the minority should have plenty of time to make themselves heard. Nor were they interested only in counting heads. They meant to create a system in which sections and regions could not suddenly override smaller sections and smaller regions.

That has some application to this debate, because there is no doubt that the South today is a minority group, a smaller region than the rest, and is about to be overridden. Mr. Lippmann continues:

This is the purpose of the famous system of checks and balances and of constitutional supremacy and judicial construction. It is based on a refusal to believe that a true democracy means the dictatorship of transient pluralities.

This is a more deeply democratic conception of popular rule than one which gives transient majorities supreme power. Compare it with the kind of popular rule by which Napoleon III made himself Emperor, by which Hitler made himself dictator, by which the people of the Saar voted away their right to vote again on how they shall be governed.

There you have the naked result of the doctrine that passing majorities should be supreme. They are so supreme that in one hysterical plebiscite they can vote away their own and their children's right to change their minds. They are so supreme that they can vote away their supremacy. And so Hitler in planning to have the Nazis rule Germany for a thousand years as a result of an election held in the winter of 1933.

This is the reductio ad absurdum of popular rule, and our system recognizes no such nonsense. It conceives the people as varied and differing human beings, liable to be swept away by passions but capable of learning from experience and of listening to reason. In great matters the will of the American people is not to be formed overnight, in a whirlwind campaign, in the midst of a passing emergency, but slowly, after prolonged argument, after repeated opportunity to make the opposition effective, by consulting the voters several times and in different ways, by letting Philip sober make up his mind when Philip is no longer drunk. We recognize, in short, the simple truth that we are human, not very wise, not very far seeing, likely to do foolish things, and that it takes time to find out what we really mean, and to correct our mistakes.

This system is worth defending, particularly by those who believe in democratic government. That does not mean that the Supreme Court is infallible, or that the Court itself has invariably seen the issues clearly and dispassionately, or that enlightened judges are not preferable to unenlightened ones. But it does mean that the system of checks and balances which compel passing majorities to reconsider their opinions and enables minorities to challenge those opinions is more truly democratic than one which allows majorities to do what they want when they want to do it. That other system is not democracy but the dictatorship of the majority. And the dictatorship of temporary majorities leads, as the constitutional fathers saw so clearly, to the dictatorship of oligarchs and demagogs.

Mr. President, it seems to me that that article is most appropriate to this debate, because here we are, in the heat of passion, with demonstrations going on around the country, and great irritations and frustrations on the part of numbers of people, and we have become frightened and worried about the situation; and now it is said that if the civil rights bill is passed, it will solve the problem and will let off steam and will be the answer. So what do we do? If cloture is invoked—and a two-thirds majority is required to do that—51 Senators will be able to vote to deprive our citizens of some of their constitutional rights, in order to try to ameliorate another situation and to pacify a certain minority group who now are not particularly satisfied with the situation in which they find themselves.

I wish to read from another article in this book by Walter Lippmann; this one is entitled "The Right of Filibuster."

I should like to ask the Senator from Minnesota and other Senators for their judgment about Walter Lippmann. I think it would be what mine is; namely, that he is a great man and a highly respected man. He has been writing for a long time, and he has, I believe, as good an understanding of our government and of what is transpiring today as that of anyone else I know of.

This is what Walter Lippmann has written about the filibuster:

It is generally assumed that it is rather undemocratic and disreputable to carry on a filibuster in the U.S. Senate. The filibuster is, of course, a weapon of the minority. It is a device for prolonging the debate in order to prevent the majority from voting to pass a bill, and those who feel that democracy means that any majority should be able to do whatever it chooses, whenever it chooses, naturally condemn the filibuster.

They are, I think, mistaken. It can be shown, I feel sure, that the filibuster under the present rules of the Senate conforms with the essential spirit of the American Constitution, and that it is one of the very strongest practical guarantees we possess for preserving the rights which are in the Constitution.

Yet there are here those who are less wise, but who, somehow, now have the majority power, and they wish to eliminate the filibuster because they do not understand it. They do not realize that the day may soon come when they will be in the minority, and that then in a situation of heat and passion, such as the present one, they could be overridden.

As Walter Lippmann has written, they must understand that the right of filibuster helps preserve the rights which are guaranteed in the Constitution.

I read further from the article by Walter Lippmann:

The apparent objection to the filibuster—that it obstructs the rule of the majority—is easily disposed of. The majority of the Senate has the power to apply cloture at any time.

Apparently this was written before the adoption of the present rule XXII—

In other words, whenever a majority wishes to stop a filibuster it can vote to stop it, and after that no one may speak more than once or longer than 1 hour on the pending measure. Therefore, though the filibuster is conducted by a minority it can only be conducted with the consent of the majority.

That rule has since been changed somewhat, in that respect.

I read further from this article by Walter Lippmann:

Behind this more or less technical justification of the filibuster there is a much more substantial justification. Democracy, as we have always understood it in America, has never meant the unrestricted rule of the majority. Our whole constitutional system is based on a conscious and deliberate rejection of that principle, and the insistence, in place of it, upon the principle that it is not the bare current majority but the great ultimate majority, the majority which is formed after there has been plenty of time for debate, which is sovereign in this democracy.

Thus there is no guarantee in the Constitution—of freedom of conscience, of the press, or even of the prohibition of human slavery—which a great majority of the voters cannot repeal. The final power is in the people and they can, if they decide, amend the Constitution in order to establish a complete despotism. But they cannot do it as the German Reichstag did 5 years ago when by majority vote it consented to commit suicide. American liberty is ever so much more strongly entrenched, and the majority of the moment cannot vote away the democratic

system or the constitutional rights of the individual.

That can be done in America only if there is an overwhelming majority and then only after the minority has had time to make a thorough appeal to the conscience of the people. That is what is meant by the checks and balances of the American Constitution. That is why we have a Constitution which limits the power of Congress, of the President, of State legislatures and of Governors. That is why the Constitution is interpreted by an independent judiciary. That is why this Constitution cannot be amended until an enormous and deliberate majority speaking through two-thirds of both Houses of Congress and three-quarters of the States consents to the amendment. And that is why in one of these Houses, the Senate, we have the jealously guarded tradition of unlimited debate, and why a majority of the Senate is very reluctant to apply cloture and stop debate.

No frame of government can absolutely guarantee human liberty. But the American system, whatever its other faults may be, is the most ingeniously and elaborately contrived mechanism on earth to make it difficult to abolish liberty in a gust of popular passion.

If we ask ourselves how we are to know when a minority is justified in using the mechanism to obstruct the majority, the answer is, I think, clear enough. Only a minority with deep convictions facing a majority with weak convictions can under the present rules conduct a filibuster.

Mr. President, I think that kind of statement is worthy of consideration. I think it is worthy of the consideration of even those who would in effect, by the passage of the bill, actually change our system in some respects by giving to the Federal Government authority which it was never intended that it have—the authority to regulate businesses which are not really in interstate commerce.

We know that when the Founding Fathers talked about commerce, they were not talking about the type and character of commerce that exists today. They recognized the rights of States. That is why in the 10th amendment they reserved to the States every right which was not specifically given by the States to the Federal Government. We forget those things, as Walter Lippmann said, in a "gust of popular passion." It is something that becomes popular in the day. That is why in the Senate we must take the time to explain at some length what we, the minority, think really might be happening to us.

In 1949 Mr. Lippmann wrote in "Filibusters and the American Idea"—

In the American system of government the right of "democratic decision" has never been identified with majority rule as such. The genius of the American system, unique I believe among the democracies of the world, is that it limits all power—including the power of the majority. Absolute power, whether in a king, a president, a legislative majority, a popular majority, is alien to the American idea of "democratic decision."

The American idea of a democratic decision has always been that important minorities must not be coerced.

I did not make that statement. I do not know of any southerner who made that statement in those beautiful words. Mr. Lippmann said it.

Who is the minority today? The South is the minority. On this issue it has been in the minority since 1860. As I said to someone today, "They talk about a minority. I know what it is to be in the minority." No southern Senator or southern politician is ever considered for any office above one representing his State.

We have one in the White House now, though he is a little farther west, only because a great President who was assassinated November 22 of last year saw the wisdom of breaking this habit and this discrimination which had existed for 100 years, by putting Lyndon Johnson on the ticket as Vice President. Most of the press does not treat Members of Congress who represent their States in the South very generously. All we need to do is to pick up the newspaper and look at the caricatures of southern Senators and the cartoons, and look at the things which they say about them in Baltimore, the New York Times, some of the Chicago newspapers, the Washington Post, and some others that we read every day. I do not know of any minority that is insulted more every day than southern Members of Congress, who get the feeling that they are definitely in the minority and in some places are not particularly wanted. But we have a bill before us which seeks to coerce the minority. That is what Walter Lippmann is talking about. He said—

When there is strong opposition, it is neither wise nor practical to force a decision. It is necessary and it is better to postpone the decision—to respect the opposition and then to accept the burden of trying to persuade it.

For a decision which has to be enforced against the determined opposition of large communities and regions of the country will, as Americans have long realized, almost never produce the results it is supposed to produce. The opposition and the resistance, having been overridden, will not disappear. They will merely find some other way of avoiding, evading, obstructing, or nullifying the decision.

That is what I tried to say a moment ago. If we are really trying to eliminate discrimination—and that is what apparently they are trying to do in the bill—we cannot do so by passing more laws and putting more laws on top of more laws, because that does not get at the real problem. Those who in their hearts and minds wish to discriminate will discriminate. The only way we shall really eliminate discrimination is to eliminate it from the hearts and minds of people.

Mr. Lippmann continued:

For that reason it is a cardinal principle of the American democracy that great decisions on issues that men regard as vital shall not be taken by the vote of the majority until the consent of the minority has been obtained. Where the consent of the minority has been lacking, as for example in the case of the prohibition amendment, the democratic decision has produced hypocrisy and lawlessness.

This is the issue in the Senate. It is not whether there shall be unlimited debates. The right of unlimited debates is merely a device, rather an awkward and tiresome device, to prevent large and determined communities from being coerced.

The issue is whether the fundamental principle of American democratic decision—that strong minorities must be persuaded and not coerced—shall be altered radically, not by constitutional amendment but by a subtle change in the rules of the Senate.

Mr. HUMPHREY entered the Chamber.

Mr. SMATHERS. My delightful friend from Minnesota has returned. I missed him.

Mr. HUMPHREY. I am here.

Mr. SMATHERS. I wish to ask the Senator his opinion of that very great writer, Mr. Walter Lippmann.

Mr. HUMPHREY. It depends on which year the Senator is quoting from.

Mr. SMATHERS. The Senator is not only delightful; he is very astute.

Mr. HUMPHREY. Mr. Lippmann is a great writer, but a man who obviously, like most other people, has matured. In the last decade he has become one of the outstanding statesman and writers of our times.

Mr. SMATHERS. Does the Senator desire to categorize him, and to say that in the 1940's and the 1950's he did not know very much?

Mr. HUMPHREY. Oh, no. I did not say that. I said that, as a great man, he learns. Great men do learn. That is the process of change.

Mr. SMATHERS. For that reason I have great hope for the Senator, who is also a great man. He, too, will learn.

Mr. HUMPHREY. The Senator gives me much encouragement.

Mr. SMATHERS. I am reading from a book entitled "The Essential Lippmann," in which the author speaks about filibusters, why they are essential, and why they protect the minority rights. He speaks of a transient majority, which is sometimes a very dangerous thing. He points out that 51 percent of the people in Germany voted themselves out of existence. He points out that no despot ever came to power who did not come to power in the name of helping the little man protect certain individual rights and liberties. Then, after having come into power, he turned on the people.

Mr. HUMPHREY. Does the Senator tell me that the people in Germany voted themselves out of existence with a 51 percent vote? Hitler never got over 40 percent of the vote.

Mr. SMATHERS. The Reichstag voted Hitler in. It is more accurate to say that the German Reichstag consented by majority vote to the demise of its power.

Mr. HUMPHREY. The people of Germany never gave Hitler a majority vote.

Mr. SMATHERS. The people of Germany did not, but the Reichstag did.

The point that Mr. Lippmann has tried to make is that if we give the people time to know what the issue is all about, in time it will be proved that the people are always right.

Mr. HUMPHREY. Correct.

Mr. SMATHERS. That is Mr. Lippmann's fundamental point. In time the

people are always proved right. But if a people lets its legislative body and spokesmen respond to certain passions—transient passions and transient issues that occur—and they vote on issues in a moment of great urgency, or the legislative body feels that it is a question of great urgency, inevitably it ends up at the wrong solution.

Mr. HUMPHREY. Will the Senator tell me whether the article from which he is reading was written in about the middle of the 1930's?

Mr. SMATHERS. No; I am now reading from a portion of the book which was written in 1949, one year short of 1950. I believe the Senator has already said that in the decade of the 1950's he was pretty good.

Mr. HUMPHREY. What is the name of the article?

Mr. SMATHERS. "Filibusters and the American Idea."

Mr. HUMPHREY. "Filibusters and the American Idea." Does Mr. Lippmann come out for the filibuster or does he come out for extended debate?

Mr. SMATHERS. I will read it:

In the American system of government the right of democratic decision has never been identified with majority rule as such. The genius of the American system, unique I believe among the democracies of the world, is that it limits all power—including the power of the majority. Absolute power, whether in a king, a president, a legislative majority, a popular majority, is alien to the American idea of democratic decision.

The American idea of a democratic decision has always been that important minorities must not be coerced. When there is strong opposition, it is neither wise nor practical to force a decision. It is necessary and it is better to postpone the decision—to respect the opposition and then to accept the burden of trying to persuade it.

Mr. HUMPHREY. That is what we are trying to do.

Mr. SMATHERS. The article continues:

For a decision which has to be enforced against the determined opposition of large communities and regions of the country will, as Americans have long realized, almost never produce the results it is supposed to produce. The opposition and the resistance, having been overriden, will not disappear. They will merely find some other way of avoiding, evading, obstructing, or nullifying the decision.

For that reason it is a cardinal principle of the American democracy that great decisions on issues that men regard as vital shall not be taken by the vote of the majority until the consent of the minority has been obtained. Where the consent of the minority has been lacking, as, for example, in the case of the prohibition amendment, the democratic decision has produced hypocrisy and lawlessness.

This is the issue in the Senate. It is not whether there shall be unlimited debates. The right of unlimited debates is merely a device, rather an awkward and tiresome device, to prevent large and determined communities from being coerced.

The issue is whether the fundamental principle of American democratic decision—that strong minorities must be persuaded and not coerced—shall be altered radically, not by constitutional amendment but by a subtle change in the rules of the Senate.

The issue has been raised in connection with the civil rights legislation. The question is whether the vindication of these civil rights requires the sacrifice of the American limitation on majority rule. The question is a painful one. But I believe the answer has to be that the rights of Negroes will in the end be made more secure, even if they are vindicated more slowly, if the cardinal principle—that minorities shall not be coerced by majorities—is conserved.

For if that principle is abandoned, then the great limitations on the absolutism and the tyranny of transient majorities will be gone, and the path will be much more open than it now is to the demagogic dictator who, having aroused a mob, destroys the liberties of the people.

That is what Mr. Lippmann had to say. I am trying to say that I think it has great application to the particular situation in which we find ourselves today.

Mr. HUMPHREY. A very fine article.

Mr. SMATHERS. We are all disturbed by the demonstrations. We would like to see the demonstrators get in the courts and off the streets. I know that this is what some of my good friends who are very much in favor of this bill believe is going to happen. On the other hand, I think we must agree that the bill would reach into the lives of the majority of the people and in some ways regulate and redirect the lives of many people. It really goes much further than we may think it does at this moment. It actually goes to the point, in the minds of some people—certainly not the Senator from Minnesota, but in some areas—that the South should be punished again.

I know the Senator from Minnesota [Mr. HUMPHREY], the majority leader [Mr. MANSFIELD], and the acting minority leader [Mr. COTTON] do not subscribe to that theory at all, but I know in some areas they want to see the bill passed for that very reason.

The South is a minority at the moment. If the majority, on the basis of demonstrations and all the heat which has been generated by reason of the various problems which we recently have seen publicized in the papers, passes a far-reaching bill, we are likely to do a great detriment to our constitutional system. That is not intended, but there will be a great detriment done to our constitutional system.

In the long run, rather than accomplish the mission that is sought to be accomplished, which is to bring about a better understanding among people of different races, creeds, and color, I am afraid antagonisms and divisions will be created. Rather than increase anyone's liberties, I believe it would stop the people's liberties and deprive a certain group of people of constitutional liberties.

Mr. Lippmann deserves to be considered in the debate. As I said earlier, I think he is a wise man. I do not draw a time limitation on that statement. I thought he was great in 1936. I thought he was great in 1946. I thought he was great in 1956. I think he is particularly great in 1964. I think almost everybody else has the same respect and feeling for him.

I continue with my statement.

Is this respect for procedure? Is this simple respect for one's colleagues? I think not. Were this an isolated example of the "win at any cost" philosophy surrounding this proposed bill, the danger would not be so great, perhaps, to warrant the attention I have given the subject.

But it is not an isolated example, it is part of a preconceived plan to push aside all those who cherish order and principle, and thrust home the passage of a hastily and ill-written bill.

This plan is evidenced throughout, from the limitation of floor debate in the House of Representatives to 5 minutes per Member, to the proposal to forbid floor amendments in the Senate.

Where is this bill to get the desired study necessary for good legislation? Not in the House committees, according to the report I quoted before. Not in the 5 minutes of debate per Member on the floor of the House of Representatives. And not in the Senate Judiciary Committee if we do not put principle before expediency. And if not in the Senate committees, with this no-amendment rule in effect, this legislation will never have anything comparable to the study and unhurried discussion so necessary for a bill of this nature.

In short, without touching on the merits of the bill itself, it is obvious that the one proper course open to us as men of honor, mindful of our duties to the citizens of this country, is to refer the so-called civil rights bill of 1963 to committee for appropriate action.

This is technically correct, and despite the pressures of power politics, it is the morally correct choice, both for ourselves as honorable men dealing with honorable men, and as Senators of the United States dealing with the trust of this Nation.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD an article which appeared in tonight's Washington Star, by David Lawrence, another great editor. I do not happen to agree with him quite so much as I do with Mr. Lippmann, but I must say I think he is a great American, a great citizen, and a great writer.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRIVATE CLUBS FACE RIGHTS FIGHT—FACILITIES OPEN TO MEMBERS' GUESTS ARE NOT EXEMPT IN PROPOSED LAW

(By David Lawrence)

The private club in America is headed for legal trouble—maybe lots of it. The civil rights bill already passed by the House and awaiting action in the Senate stipulates that in certain respects private clubs will no longer be private under the proposed law.

Not all private clubs will be affected, but primarily those which provide lodging as well as a restaurant service or swimming pools or the use of golf courses to guests of members or which allow patrons of a nearby hotel to use their facilities.

Read literally, the proposed law would seem to mean that, while the private clubs are exempted in many respects, the exemption does not cover club facilities which are made available to guests of members.

Are these guests to be regarded as part of the public? If a member chooses, for instance, to give a guest card to a Negro, the visitor must be furnished lodging or permitted to use the golf courses or swimming pool. If any of these facilities are denied to him, discrimination on the basis of color

can be charged, and the club officers can be hauled into court. The same thing would be true with respect to guests who happen to be of a particular religion or national origin.

The bill pending in the Senate says under title II, section 201:

"(A) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

"(B) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

"(1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence."

Also, in other parts of the bill, among the facilities specifically listed as "public accommodations" which cannot engage in any form of discrimination are restaurants, cafeterias, lunchrooms, "or other facility principally engaged in selling food for consumption on the premises," and "places of exhibition or entertainment," such as movie houses, theaters, sports arenas, and concert halls.

It has been assumed by many Members of both Houses of Congress that private clubs are to be exempted, but a careful reading of the exemption clause now raises doubts. This subsection of the House bill pending before the Senate says:

"(E) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (B)."

But an "establishment" is defined under subsection (B), as one "which provides lodging to transient guests" or one "principally engaged in selling food for consumption on the premises." Can private clubs be sure that, when they furnish such facilities to guests of their members, the "public accommodations" provisions and penalties do not apply?

Many private clubs operate eating places for members and guests and provide rooms for lodging, as well as such other facilities as barbershops, recreational rooms, massage parlors, and even swimming pools. In the larger cities, some clubs are, for all practical purposes, just like hotels. These are usually organized by alumni of various colleges and universities and are owned by their members. Some of the exclusive clubs which are in reality hotels that serve transient guests have been established primarily by business and professional men.

What is meant, moreover, by the words "bona fide private club," or the words "any other establishment open to the public"? There are some hotels in resort areas which function as private clubs because they issue membership cards and require a nominal payment of dues annually. A membership card entitles the holder to send his friends to the hotel as guests.

In a "bona fide private club," there are often restrictions as to the use of lodgings and other facilities. The fact remains, however, that under the proposed law, the courts will have to decide whether any private club which permits as guests persons of certain races or creeds or national origin to use its lodgings or its restaurant or its barbershop or its golf course or swimming pool can be compelled to open these facilities to guests of all other races or creeds and irrespective of national origin.

Mr. SMATHERS. The article is headed "Private Clubs Face Rights Fight—Facilities Open to Members' Guests Are Not Exempt in Proposed Law."

This is another particular evil with respect to the bill that I had not originally intended to discuss at this time, but so long as I am placing the article in the RECORD, I shall discuss it. Perhaps we can get into a little dialogue with the Senator from Minnesota and discuss some of the uses to which the provisions of the bill can be put.

The article continues:

The private club in America is headed for legal trouble—maybe lots of it. The "civil rights" bill already passed by the House and awaiting action in the Senate stipulates that in certain respects private clubs will no longer be private under the proposed law.

Not all private clubs will be affected, but primarily those which provide lodging as well as restaurant service or swimming pools or the use of golf courses to guests of members or which allow patrons of a nearby hotel to use their facilities.

Read literally, the proposed law would seem to mean that, while the private clubs are exempted in many respects, the exemption does not cover club facilities which are made available to guests of members.

Are these guests to be regarded as part of the "public?" If a member chooses, for instance, to give a guest card to a Negro, the visitor must be furnished lodging or permitted to use the golf course or swimming pool. If any of these facilities are denied to him, discrimination on the basis of color can be charged, and the club officers can be hauled into court. The same thing would be true with respect to guests who happen to be of a particular religion or national origin.

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"(B) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

Paragraph 1 reads as follows:

(1) Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence.

Also, in other parts of the bill, among the facilities specifically listed as "public accommodations" which cannot engage in any form of discrimination are restaurants, cafeterias, lunchrooms, "or other facility principally engaged in selling food for consumption on the premises," and "places of exhibition or entertainment," such as movie houses, theaters, sports arenas, and concert halls.

It has been assumed by many Members of both Houses of Congress that private clubs are to be exempted, but a careful reading of the exemption clause now raises doubt. This subsection of the House bill pending before the Senate says:

(E) The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

But an "establishment" is defined under subsection (b) as one "which provides lodging to transient guests" or one "principally engaged in selling food for consumption on the premises." Can private clubs be sure that, when they furnish such facilities to guests of their members, the "public accommodations" provisions and penalties do not apply?

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am glad to yield, but I should like to finish this article.

Mr. HUMPHREY. Why does not the Senator finish the article and then we will make some legislative history.

Mr. SMATHERS. Yes, let us make some legislative history. I am for it.

I read further from the article:

Many private clubs operate eating places for members and guests and provide rooms for lodging, as well as such facilities as barber shops, recreational rooms, massage parlors, and even swimming pools.

I know the Senator from Minnesota belongs to the Army and Navy Club, which has a variety of types of facilities, but it is still considered to be a private club, open only to certain military people and Members of Congress or the Government. No one else can get in unless he has a card.

Now, I shall continue reading the column by David Lawrence:

In the larger cities, some clubs are, for all practical purposes, just like hotels. These are usually organized by alumni of various colleges and universities and are owned by their members. Some of the "exclusive" clubs which are in reality hotels that serve transient guests have been established primarily by business and professional men.

We know about this type of club. There is the New York Athletic Club; there is one in Washington called the Washington Athletic Club. There is the Yale Club. There is the Alumni Club of Princeton, and so forth.

I read on:

What is meant, moreover, by the words "bona fide private club" or the words "any other establishment open to the public"? There are some hotels in resort areas which function as private clubs because they issue membership cards and require a nominal payment of dues annually. A membership card entitles the holder to send his friends to the hotel as guests.

In a "bona fide private club," there are often restrictions as to the use of lodgings and other facilities. The fact remains, however, that under the proposed law, the courts will have to decide whether any private club which permits as guests persons of certain races or creeds or national origin to use its lodgings or its restaurant or its barbershop or its golf course or swimming pool can be compelled to open these facilities to guests of all other races or creeds and irrespective of national origin.

That is the end of the article as it was published in the Washington Evening Star this evening.

I should like to ask the Senator from Minnesota what is his understanding with regard to the bill as it pertains to so-called private clubs?

Mr. HUMPHREY. David Lawrence in his article has quoted generously and accurately from title II of the bill. He quotes from subsection (b), section 201, and also quotes subsection (a) and subsection (e). First of all, I direct the attention of the Senator to subsection (e) which was quoted in the column, which provides:

The provisions of this title shall not apply to a bona fide private club or other establishment not open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

Section (b) reads:

Each of the following establishments which serves the public—

"Which serves the public"—that is the controlling phrase, and is the controlling language that relates to subsection (e) when a private club loses its identity as a private club and becomes a public facility.

To put it more precisely, the Army and Navy Club which the Senator mentioned is well known in this community. It has a fine golf club, recreational facilities, swimming pools, dining rooms, recreational halls. It is a membership club. It is a private club and has within its bylaws provisions for members to bring in guests. It is not open to the public.

Not everyone can stop by and say, "Hello, my name is John Jones, and I would like to come in and have dinner," because he would be asked for his membership card. Each membership card generally carries a number.

If, however, a member of the club called up the manager and said, "My friend, John Jones, is coming out to the club, and I want you to see that John Jones, his wife, and family have a nice dinner, and put it on my club card." That means John Jones would be a guest, enjoying the hospitality of a member of the club. There is nothing in the bill that applies to such a club, except that it would be exempt.

However, if on Saturday night, let us say, the Army and Navy Club decided it did not have enough income from its membership, and that once a week it had to open its facilities to anyone and everyone around the District of Columbia, Maryland, and Virginia, or anyone that came through; in other words, suppose it put up a big neon sign out at the gate which read, "Tonight these facilities are open to one and all. Come one, come all. Reasonable rates, good dinner, lots of fun, dancing, and pretty girls, swimming pools, and so forth," the club would give the whole treatment when that sign went up. But it would cease to be a private club, it would take on the character of a public facility or a public business under which it would become an institution or a facility serving the public.

It is that simple.

Whenever a private club loses its identity for whatever purpose it may be and becomes a facility that readily serves the public, then it is a public facility, and the effect of the proposed statute would apply.

Take, for example, the Cosmos Club, the Army and Navy Club, the University Club, the Union League Club, the Minneapolis Club, or the Minneapolis Athletic Club, to one of which I am privileged to belong. Those are private membership clubs. In fact, the Minneapolis Club is so private that my wife cannot even go in the front door. They make her use the back door.

Mr. SMATHERS. That is discrimination.

Mr. HUMPHREY. It really is discrimination. I protested, but to no avail. But this bill would not eliminate that kind of discrimination. It is a private club. I wish to make it clear that I do not believe there should be a Federal law which provides that a private club should be managed this way, or managed that way. A private club is a fraternal, civic body. It has a purpose for existing. It has a charter, it has bylaws, and its members agree to live up to those bylaws.

Mr. SMATHERS. I agree with the Senator from Minnesota. I am frankly pleased to hear his explanation. I gather Mr. Lawrence is concerned about the phrase in section (e), subparagraph (e), which reads "except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b)."

Mr. HUMPHREY. The Senator is correct.

Mr. SMATHERS. Subsection (b) has only to do with the public, and he apparently has overlooked that. What he thought was——

Mr. HUMPHREY. The Senator is correct.

Mr. SMATHERS. Because one had restaurants——

Mr. HUMPHREY. The Senator is correct.

Mr. SMATHERS. Because one had restaurants there, and people came in and guests were admitted. Thereafter it would lose the characteristics of a private club, because there was a restaurant serving a guest and, therefore, the whole thing would be opened up and the Federal Government would be able to take it over.

Mr. HUMPHREY. Exactly. My view is that that is not the case. I might go further. The Senator from Florida is a very generous, hospitable man. He likes to entertain his friends. I can well imagine that the Senator from Florida would have membership in a private club—let us take the Army and Navy Club as an example—and might decide that in the next week or two he would like to take to dinner about 15 of his colleagues in the Senate and their wives, for a little friendly get-together. Personally I would hope that he would bring along a few other people, to liven up the party.

Mr. SMATHERS. If the Senator from Minnesota were among the guests, we would not need anyone else.

Mr. HUMPHREY. That might be true. I was trying to wangle an invitation. If the Senator were to do that, even though not one of those 15 persons was a member of the club, inasmuch as the Senator picked up the tab—because it was the Senator's evening, so to speak—that little party would not make the club take on public characteristics. It would still be a private club, because those people would be there because the Senator from Florida had invited them.

However, if the club were trying to make ends meet—and that is not unusual these days—and the board of directors decided that a substantial section of the club's facilities should be open to the public, it would then take on the characteristic of a public place, and it thereby would lose its special exemption. That is all that is provided in the bill. I do not believe that Mr. Lawrence's worry is justified.

If a club were established as a way of bypassing or avoiding the effect of the law, and it was not really a club—I am sure the Senator knows what I mean—and there are clubs like that in existence, where anyone can step up and pay $2 and in that way become a member, with the $2 being used as a kind of cover charge, that kind of club would come under the language of the bill.

However, the kind of club Mr. Lawrence is worried about would be exempt. If the proposed statute is not adequate to give that kind of club an exemption, and to make it crystal clear that it would be exempt, I would favor writing in clarifying language to that effect.

Mr. SMATHERS. I do not know what clubs Mr. Lawrence belongs to, but I am sure that what the Senator has said will relieve in a great measure his apprehension on that point, and that of many people who enjoy the privilege of belonging to a private club.

In view of the failure of proponents of the bill to follow the procedures of Congress in presenting this bill for consideration, it is not surprising that the procedures provided in the bill to accomplish its goals are deficient.

Every person versed in the working of law, in the administration of justice, and in the preservation of liberty recognizes that procedural guarantees transcend substantive goals in relative importance. The value judgments of nations change as the composition of the majority of the governed changes, as economic, social and other conditions change, and as individual concepts of morality change. While most "end goals" change, basic standards of procedural fairness should be preserved in order to assure the preservation of our democratic society and our individual liberties.

The importance of the manner in which goals are accomplished is perhaps best illustrated by the Constitution itself which is almost entirely concerned with procedures—

With the manner in which Congress is constituted and how it shall operate;

With the method of Presidential selection;

With the jurisdiction of judges;

With the effect of laws of one State in another;

With the prohibition of retroactive criminal laws;

With guarantees of expression; and

With the procedures that assure a fair trial.

Traditionally, those professing liberalism have meticulously sought to preserve these procedural guarantees of fairness. When the substantive goal has become too passionately desired, however, there has been a tendency by those of all political persuasions to abandon faith in our normal democratic processes designed to permit the achievement of substantive goals. A problem which has existed for years and which has been gradually solved through human interchange over these years, must suddenly be resolved in a few months without discussion by those charged with the responsibility for resolution. The "solution" achieved requires its implementation in a manner designed to avoid justice.

The procedures prescribed by the Civil Rights Act of 1963 are deficient in many respects, but for the present I wish to focus the attention of Senators on only a representative few of these deficiencies. These are the provision of criminal sanctions without appropriate procedural safeguards, including jury trial; the abandonment of traditional appellate and trial procedures; and the abandonment of deference to administrative procedures and State-created remedies.

Mr. HUMPHREY. Mr. President, the Senator has studied the bill carefully. I should like to ask him where there is any abandonment of appellate procedures.

Mr. SMATHERS. I will go into great detail on that point. If I start to ad lib at this moment I will not do as understandable a job as I will do if I read my prepared text. I shall give the Senator the alpha to omega on the question.

CRIMINAL SANCTIONS WITHOUT PROCEDURAL SAFEGUARDS

One of the major procedural deficiencies of the bill is its employment of criminal sanctions to enforce a so-called civil right without the safeguards that normally accompany criminal charges. The method of enforcement generally employed with respect to the various titles of the bill is injunctive relief. For example, under title IV the Attorney General may seek to enjoin segregation of public schools, and under title VII of the bill the proposed Equal Employment Opportunity Commission may seek to enjoin employment practices which the title declares to be unlawful. Finally, the public accommodations title of the bill employs the injunctive process to achieve its goals.

Proponents of the bill describe the sanctions employed in the bill as "civil suits." Any harshness of remedy is disclaimed. For example, the report of the House Judiciary Committee states:

> The prohibitions of title II would be enforced only by civil suits for an injunction. Neither criminal penalties nor the recovery of money damages would be involved.

Thereafter, however, the report notes that "persons violating an injunction would, of course, be subject to contempt sanctions. * * *"

How do these so-called "civil suits" operate? A typical example of how the injunctive process prescribed by the bill might work follows:

An automobile dealer in Washington, D.C., employs 25 persons, including 4 Negroes employed as mechanics and car salesmen. A complaint is made to the Equal Employment Opportunity Commission that this dealer discriminates against Negroes in employing salesmen. Without utilizing informal procedures to obtain voluntary compliance, the Commission exercises its discretion to seek injunctive relief. A hearing is held before a judge who issues an injunction ordering the employer not to discriminate, and ordering him to hire as a salesman one Joe Jones, who had previously applied for, but had been refused, a job. The dealer does not believe that Jones will be an honest, hard-working employee and, notwithstanding the court's order, the dealer refuses to employ Jones.

In the meantime, the dealer refuses to hire one other job applicant. The dealer is charged with the crimes of violating the injunction in two respects: First, failing to hire Jones, as directed, and second, discriminating by refusing to hire the other job applicant. This charge is not made by an indictment returned by a grand jury but is made by the judge who issues a "show cause" order. When the dealer is tried, he is not permitted to have a trial by jury, but he is tried by the judge who issued the contempt charge in the first instance. Upon trial by the judge without jury, the dealer may be sentenced to jail for substantial periods of time.

I think that is a rather good illustration of what we mean by the failure to follow ordinary legal protections. We have a situation here in which a judge issues the first order. The judge issues the injunction. The judge issues a contempt citation, and then he tries the whole case himself. He punishes the man and puts him in jail.

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

Mr. SMATHERS. I yield.

Mr. HUMPHREY. Is this an unusual procedure?

Mr. SMATHERS. Yes. This is an unusual procedure.

Mr. HUMPHREY. Has the Senator ever voted for this type procedure before?

Mr. SMATHERS. I may have. I do not recall it. I hope I have not.

Mr. HUMPHREY. Does not the Federal Aviation Agency have the same type of procedure?

Mr. SMATHERS. I do not believe so.

Mr. HUMPHREY. Does not the Interstate Commerce Commission have the same type of procedure?

Mr. SMATHERS. I am not talking about the three-judge court.

Mr. HUMPHREY. No. I am talking about the type of cease-and-desist order and injunctive relief which is typical when there is an administrative proceeding and the agency is not empowered by itself to mete out discipline or punishment. The agency must go to a court. The court enforces the cease-and-desist order. This is true under the National Labor Relations Act. This is true under the Interstate Commerce Act. It is true under the Securities and Exchange Commission Act. This is true under the Wage and Hour Act. I hardly know of any bill or law which we have passed, Senator, in which this type of action is not typical.

Mr. SMATHERS. Frankly, I am not in a position to debate that particular point, because I do not know what the procedure is. I would be much surprised, however, if that were so. This is something on which I will educate myself in the next 24 hours, and I shall find out. I would be much surprised, however, if when one has a case before the Interstate Commerce Commission with respect to certain rules and regulations, an order is issued after a finding. In the first place, the procedure before the Interstate Commerce Commission is a little different than it would be before this Equal Employment Opportunity Commission. In such cases the burden of proof is usually on the complainant all the way through. The burden of proof is not shifted, as it would be with an employer in this particular case. Suddenly, the employer has to undertake his own defense, rather than being presumed innocent under the law until proved guilty. By the mere action of the Commission or investigator of the Commission, he suddenly is placed on the defensive and brought before a judge. Then he must prove his innocence. He has the burden of proof.

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

Mr. SMATHERS. I yield to the Senator from New Hampshire.

Mr. COTTON. I am glad that the distinguished Senator from Minnesota, in quoting the illustrations of other cases in which this sort of procedure has been used, mentioned the National Labor Relations Board. I have vivid recollections of exactly what happened under the Wagner Act when it was first put into force. I think of it every time I read this portion of the bill.

I was a young practicing lawyer. An employer of a few workers in a small plant in the city in which I practiced law found it necessary to discharge an employee. The employee, it turned out, was engaged with others in organizing a union in that plant. We were hailed before the New England representative of the National Labor Relations Board in Boston.

The testimony was that the employer did not know of this particular individual's connection with the proposed union. The testimony further was that this man was repeatedly drunk, that he was disorderly, that he was engaged in fights with other employees and was disrupting the morale of the plant. But the man who heard the case found that the employee was discharged because of his union activities. He disregarded all of the rest of the evidence. The order was issued. The employer had the choice of taking the employee back, paying all of his past wages and taking the man back into his plant, or suffering the penalty for disregard of an injunction.

Those things have been corrected as time went on. I do not say that is common practice. Much was done under the much abused Taft-Hartley Act to remedy this situation. But it is one thing for the FAA to issue an injunction in the case of some kind of practice that endangers the lives of people flying in the air; but it is another thing to place the case in the hands of a tribunal, or any one man, or any group of men as commissars to deal with the rights of individuals.

I never forgot the bitterness I felt as a 29-year-old lawyer when I encountered the first example of what happens when we disregard the Anglo-Saxon rules of legal procedure and place somebody in power who issues orders that some citizen must obey. That is precisely the thing the distinguished Senator from Florida has been so ably describing. The examples used by the Senator highlight the situation at least in my opinion. Before I take my seat, I compliment the distinguished Senator for the very able speech he has been making, as well as the distinguished Senator from Minnesota for the points he has so ably brought out.

Mr. SMATHERS. I thank the able Senator from New Hampshire for his statement and recitation of his own experience before the National Labor Relations Board. I might supplement what he has said. I do not know whether he was in the Chamber at the time I read an article about an FEPC case in Illinois, in which an employer had refused to hire a Negro. He rejected the man on the basis that he was not qualified for the job. Thereafter, an examiner for the Illinois Employment Commission, upon looking into the case, said that the employer had exercised discrimination in his refusal to hire the man because the test given by the employer had failed to make allowance for the fact that the man was socially disadvantaged. I do not know what that meant. No one else knew exactly what it meant.

The examiner further said that the employer failed to take into account that the applicant came from a place less cultured and had less opportunity to become cultured. On that basis or on those grounds he ruled that the employer was wrong in not hiring the man. He said that the employer had discriminated; that he had not taken into account that the man was disadvantaged because of his background.

If social and theoretical reasons are to be considered in determining whether an employer has discriminated in hiring someone, we shall have opened up the greatest can of worms that has ever been opened in the history of the Senate. The process will never end, because those who comprise employment commissions will be telling employers exactly who ought to be hired in all kinds of business. In my opinion, the American people do not want that to happen.

Mr. HUMPHREY. Mr. President, will the Senator from Florida yield?

Mr. SMATHERS. I am happy to yield to the Senator from Minnesota.

Mr. HUMPHREY. We are coming to the end of a very fruitful day in the debate on the bill; and I join the Senator from New Hampshire in complimenting our good friend, the Senator from Florida, on his very able presentation of his side of the issue. His presentation has been very well documented, and he has been very generous in being willing to debate the issue without seeking to abide by all the formalities ordinarily required by the Senate procedure. I thank him.

I should like to have this part of the debate close on a note of clarification, if the Senator from Florida will permit, because I do not wish to see happen what the Senator from New Hampshire indicated had happened in the Boston area, under the Wagner Act. In fact, the Senator from New Hampshire indicated what generally happens. The American people generally respond to any excesses which are committed either within the law or outside the law; and, thank goodness, the American people are devoted to that sort of civic response.

But the bill states categorically, in section 707:

SEC. 707. (a) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has reasonable cause to believe a violation of this Act has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the Commission shall furnish such employer, employment agency, or labor organization (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge.

So, first, it is clear that the Commission will not run around looking for work. The Commission must first receive in writing a charge, under oath, that an unfair employment practice has occurred. Then the Commission must notify the employer or employment agency or labor organization that a particular citizen has filed that charge; and the Commission must state the facts, as the Commission determines them to be from the complaint and the complainant.

Then the bill provides:

If two or more members of the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such unlawful employment practice by informal methods of conference, conciliation, and persuasion—

That is what must be done first. Then the bill provides:

and, if appropriate, to obtain from the respondent a written agreement describing particular practices which the respondent agree to refrain from committing. Nothing said or done during and as a part of such endeavors may be used as evidence in a subsequent proceeding.

Now we come to subsection (b):

(b) If the Commission has failed to effect the elimination of an unlawful employment practice and to obtain voluntary compliance with this title—

The emphasis in step No. 1 is that the procedure must be voluntary. Actually, step No. 1 is that the employer or employment agency or labor organization must be informed of the nature of the charge.

Step No. 2 is that two or more members of the Commission must ascertain, after an investigation, that there is some merit to the charge.

Step No. 3 is that if the Commission ascertains that there is some merit to the charge of an unfair employment practice, the Commission must use its good offices to seek a remedy through voluntary action—through persuasion, conciliation, and conference.

Step No. 4 is that if the Commission cannot succeed in all those endeavors, then it must, as the bill states, proceed as follows:

the Commission, if it determines there is reasonable cause to believe the respondent has engaged in, or is engaging in, an unlawful employment practice, shall, within ninety days, bring a civil action to prevent the respondent from engaging in such unlawful employment practice—

The Commission will not order anyone; the Commission will not say to Employer A, "We have found you guilty, and we are imposing a penalty upon you."

Instead, the Commission will say, "After our investigation, we think there may be an unfair employment practice in this case. Let us talk over this situation; perhaps we can get something done."

But if the employer says, "No," then the Commission—and let us make this point quite clear—must determine, by affirmative vote, whether a civil action will be in the public interest or whether it will not be. That must be determined by an affirmative vote.

Then the Commission will go to court—but not to seek the enforcement of an order. Instead, it will go to court with the evidence it has gathered after the decision by the Commission that an unfair employment practice had occurred; and if the court decides the evidence is adequate, the court will issue injunctive relief. That is a far cry from the procedure in the early days of the National Labor Relations Act.

Mr. SMATHERS. I should like to ask about the words used with respect to the action of the Commission "by affirmative vote." There would be five members of the Commission, would not there?

Mr. HUMPHREY. Yes.

Mr. SMATHERS. Does the Senator from Minnesota understand that the Commission would operate by majority vote?

Mr. HUMPHREY. In this sense that is correct. Two or more of the members of the Commission would have to agree, before even an investigation could be initiated. But a majority of the votes of the Commission would be necessary before the court would be asked to intervene.

Mr. SMATHERS. I should like to ask the Senator from Minnesota another question. Of course, that procedure could result in a criminal penalty, even though it were a civil action. It could result in a man being put in jail or being fined $300. That could be done on a complaint by one person and on a finding by a Commission.

Mr. HUMPHREY. That is correct. But—and I state this, to make sure the record is clear—that complaint could not be made by someone walking into the office of the Commission and saying, "That employer up the street would not let me have a job." Instead the complainant must make a written statement, under oath. In addition, his statement must be such that, under preliminary investigation, it must be judged by two or more members of the Commission to warrant further investigation and a voluntary seeking of compliance.

The Senator from Florida has been very fair and most cooperative, and I wish to join him in helping to clarify matters which relate to procedures in connection with our laws and constitutional rights. Sometimes we have to have such procedures, but I am not particularly happy about this.

Mr. SMATHERS. The Senator from Minnesota agrees, does he not, that before the respondent would go to jail, he would have to be found to have violated the court's injunction?

Mr. HUMPHREY. Well, of course, the court would, upon the initiative of the Commission, or of the alleged aggrieved party, have to determine whether an unlawful employment practice had occurred. If, in the judgment of the court, such an unlawful practice had occurred, undoubtedly the court would issue a cease-and-desist order, or would say, "This practice must stop."

If the employer or respondent refused to abide by the order of the court, then—exactly as in any other case in the United States, if a respondent or defendant refuses to abide by a court order—he would soon see what would happen to him. After all, if a man is in court on an income tax case, and if the court makes an assessment, the respondent will find he is "in the pokey" if he does not pay the assessment or, if the court issues an order, if he does not abide by the court's order.

Mr. SMATHERS. But the procedure under this bill would be a little different. In the bill, I see there is provision for the appointment of a master.

Mr. HUMPHREY. That is correct.

Mr. SMATHERS. And the master would take the testimony, if facts were in issue; and he would report to the court.

Mr. HUMPHREY. Yes; that is subsection (f):

(f) In any case in which the pleadings present issues of fact, the court may appoint a master and the order of reference may require the master to submit with his report a recommended order. The master shall be compensated by—

And so forth.

The hour is late. The Senator has been very generous with his time. While the particular section about which we have been speaking may have its limitation—and there are those who feel very strongly about the section—I wish to say that when I studied it I was very much impressed by the fact that it was as moderate a fair employment section as I have ever read. It is based essentially upon voluntary compliance, and it provides for the right of the Commission to take its facts to the courts. If an effort needs to be made to ascertain what the facts really are, the court may appoint a master. The master may take evidence and make recommendations as to a court order.

This particular section would require a good deal of discussion here. I hope that the Senator from Florida will again, at the proper time, give us the benefit of his knowledge on it. I appreciate the spirit in which the Senator has discussed the entire bill. It has been a very helpful discussion for the Senate.

Mr. SMATHERS. I thank the Senator. When I discuss the question again, which I expect to do, in some respects I shall be better informed in relation to certain of its technical features than I am today.

If we are getting ready to conclude for tonight—and we have had a 12-hour 10-minute day up to the present time—I wish to emphasize the fact that I do not really believe that this is the way to answer the problem.

In my judgment title VII is a particularly dangerous section. I believe that it would create more problems than now exist. I think that we would see it stultify the business community in many respects. It would take away from what we have had up to this point. The businessman who under our free enterprise system has the right of choice, the right to exercise his own managerial judgment, the right to employ people whom he thought would be most useful in his particular concern, would no longer be able to do so if the particular section to which I have referred should be adopted.

Furthermore, I think it would be a great harassment to the American business community and the free enterprise system, because while the able Senator from Minnesota has said that the bill is moderate with respect to its FEPC sections, I do not really believe that in the long run it would do anything other than require a businessman to hire a prospective employee because of his race or religion. For example, there might be a businessman who has had a history, we will say, of never having hired anyone of the Jewish faith previous to the time that the Commission would be set up. Perhaps if the bill is passed, he would be afraid the Commission would find that the fact that he had not previously hired anyone of that faith had "set a pattern."

The Commission might become like the National Labor Relations Board and some of the other commissions that lean all one way, or the employer might believe the Commission was that way. Immediately, the first time someone of that faith comes to the employer seeking employment, the employer might think the Commission would find: "The pattern has already been set because we see that the businessman has never hired any men of the Jewish faith. He has never hired a Puerto Rican. We see that he has never hired any men of the colored race." Therefore he is almost guilty before he is started, and he might feel it necessary to hire that applicant regardless of his appraisal of his ability. There is no provision in the bill about the prospective employee's ability. The bill merely provides that the employer may not refuse to hire the prospective employee because of his race or color. The employer might refuse to hire him and say, "I am not refusing to hire him because of his color but because of his lack of ability." When we look at what he has been doing over the years, and knowing the pressures that will be on him if he does not hire that man, who may have some ability, but who may not be up to quite the ability of the man whom the employer would really like to have, the result might well be that employer would then be hailed into court. He then would have to go to the expense of what would obviously be a somewhat protracted piece of litigation.

The employer is liable to be found guilty. He must either hire the prospective employee—even though he does not want him, even though he does not think he would fit into his shop, and even though he believes hiring the man would be detrimental to his own business—or if he did not hire him, he would be subject to a $300 fine and 45 days in jail.

I cannot believe that proposed legislation of the kind of which we are now speaking would achieve the very lofty objectives which its sponsors have for it. On the contrary, I believe that it would interfere very seriously with rights guaranteed to all of our citizens, irrespective of race, color, or creed. It would have a devastating effect on our free enterprise system. I believe it would lead to more bureaucracy. I think it is a most unfortunate section. I hope that it will be dropped from the bill.

Mr. HUMPHREY. The Senator has not been reading the correct bill. I can understand after I have heard him discuss it.

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

Mr. SMATHERS. I yield.

Mr. HILL. I heartily congratulate the Senator from Florida on his able speech and the masterful way in which he has presented the case against the civil rights bill.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

ADDITIONAL BILLS AND JOINT RESOLUTION INTRODUCED

An additional bill and joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HOLLAND:

S. 2678. A bill for the relief of Dr. Victor M. Ubieta; to the Committee on the Judiciary.

By Mr. McCARTHY:

S.J. Res. 164. Joint resolution calling upon the President of the United States to use full facilities of our Government to make arrangements for and to bring about delivery of an adequate supply of matzoth to key centers of Jewish life in the Union of Soviet Socialist Republics on an emergency basis, so that the Feast of the Passover which begins at Sundown, Friday, March 27, and ends

at sundown Saturday, April 4, may be observed in keeping with 5,724 years of Jewish tradition; to the Committee on Foreign Relations.

(See the remarks of Mr. McCARTHY when he introduced the above joint resolution, which appear under a separate heading.)

FURNISHING OF MATZOTH TO JEWISH PEOPLE IN SOVIET RUSSIA

Mr. McCARTHY. Mr. President, I introduce, for appropriate reference a joint resolution calling upon the President to use the full facilities of our Government to make arrangements on an emergency basis for the delivery of an adequate supply of matzoth to the key centers of Jewish life in the Union of Soviet Socialist Republics, so the Feast of the Passover may be observed in keeping with over 5,000 years of Jewish tradition.

This joint resolution is a companion to one introduced in the House of Representatives by Representative FEIGHAN on March 18. I ask that it remain at the desk until the close of Senate session Wednesday, March 25, so other Senators may have an opportunity to sponsor the resolution.

The Feast of the Passover commemorates the great event in Jewish life of the liberation of Israel from bondage in Egypt. It is the festival of freedom, and this year it will be observed from sundown on March 27 to April 4. Of course, the unleavened bread, matzoth, is a necessity for observance of the feast.

Last week the New York Times carried a disturbing article about the recent Soviet action in closing the only matzoth bakery in Moscow. This was the latest in a series of actions by the Soviet officials which have resulted in a shortage of matzoth available to the Jewish people. Shortages of matzoth are reported in other cities, and even if the Moscow bakery is reopened, it is inadequate to meet the need.

I have also had reports from other sources about the seriousness of the situation and about the need for emergency action to make it possible for the Jewish people in the Soviet Union to observe the Feast of the Passover.

I ask unanimous consent that the news report in the New York Times be printed in the RECORD, along with the text of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and article will be printed in the RECORD, and the joint resolution will be held at the desk, as requested by the Senator from Minnesota.

The joint resolution (S.J. Res. 164) calling upon the President of the United States to use full facilities of our Government to make arrangements for and to bring about delivery of an adequate supply of matzoth to key centers of Jewish life in the Union of Soviet Socialist Republics on an emergency basis, so that the feast of the Passover which begins at sundown Friday, March 27, and ends at sundown Saturday, April 4, may be observed in keeping with 5,724 years of Jewish tradition introduced by Mr. McCARTHY, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Whereas religious liberty is one of the most cherished rights of American democracy, and

Whereas the securing and protection of religious liberty is a desired objective of the United Nations, and

Whereas the limitation or denial of religious liberty to one religious group or sect by any member of the United Nations is a threat to the liberty of all religious groups and sects, and

Whereas the studied practice of religious discrimination or persecution by any permanent member of the United Nations Security Council does violence to the charter of that organization and gives rise to a serious threat to peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the cause of peace with justice is served by calling upon the Chairman of the Council of Ministers and the membership of the Council of Nationalities of the Union of Soviet Socialist Republics to cause an immediate cessation of all measures which deny to members of the Jewish faith the free, devotional, and historic observance of the Feast of the Passover; and be it further

Resolved, That the President of the United States is hereby authorized and requested to use the full facilities of our Government to make arrangements for and to bring about the delivery of an adequate supply of matzoth to key centers of Jewish life in the Union of Soviet Socialist Republics, on an emergency basis, so that the Feast of the Passover which begins at sundown on Friday, March 27, and ends at sundown Saturday, April 4, of this year may be observed in keeping with five thousand seven hundred and twenty-four years of Jewish tradition.

The article presented by Mr. McCARTHY is as follows:

SOVIET SHUTS DOWN BAKERY FOR MATZOTH

(By Henry Tanner)

MOSCOW, March 15.—Moscow's only matzoth bakery has been closed by the Soviet authorities after only 2 days of operation.

Chief Rabbi Yehuda Lev Levin, said today that the bakery, which had been set up in a rented dwelling, had been closed temporarily and for sanitary reasons. He appeared to hope that he might get permission to reopen it later this week.

The bakery was opened last Wednesday to produce the unleavened bread for Passover, which begins March 28. According to unofficial Jewish sources, it produced only 220 pounds of matzoth on the first day and a similar amount on Thursday.

Members of the Jewish congregation said the closing on Friday was at the request of the fire department. The action came at a time when it had become clear that there would not be nearly enough matzoth to satisfy the need of devout Jews during Passover.

There were angry scenes at the Central Synagogue this morning as elderly Jewish men and women, who had come to collect their share of matzoth, had to be turned away empty-handed.

Many of these persons said they had turned in the flour for their matzoth at the synagogue and had been promised an equivalent amount of unleavened bread.

Now they have neither flour nor matzoth, they said. Flour is fairly difficult to get in Moscow these days and buyers often have to queue for limited quantities.

Matzoth supplies are also reported to be insufficient in Leningrad and Kiev, two other Soviet cities with large Jewish populations. In Leningrad the Central Synagogue has not been able to bake matzoth even though it has its own baking facilities, according to unofficial reports.

Georgia is the only part of the country where matzoth has been baked in approximately sufficient quantities in past weeks, private reports said.

The Central Synagogue in Moscow was permitted to improvise a bakery to alleviate the plight of devout Jews since state-run bakeries were ordered to stop baking matzoth two years ago.

There has been no ban on the baking of matzoth by individual families. If a person bakes more than is required for his own needs and sells the surplus, however, he is breaking Soviet laws against private commerce.

Last year three persons were given jail sentences for the illegal sale of matzoth.

SUPPLIES FROM ABROAD

Earlier this month Georgi Lieb, president of the congregation of Moscow's second synagogue, said he expected shipments of matzoth from abroad to alleviate the shortage.

He said that about 10,000 pounds of matzoth would be sent from Denmark by Dr. Isaac Levin of New York, president of the American section of Agudas Israel, and that 1,500 pounds would be sent by Britain's chief rabbi, Dr. Israel Brodie. There are also reports of offers from Belgium and Israel.

The Soviet authorities are reported to be allowing private shipments from abroad.

ADDITIONAL TIME FOR JOINT RESOLUTION 163 TO LIE ON THE DESK FOR ADDITIONAL COSPONSORS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Senate Joint Resolution 163, which was introduced earlier today, be allowed to lie on the desk for 2 additional days until Friday, March 27. I do this on behalf of the senior Senator from Washington [Mr. MAGNUSON].

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I move, pursuant to the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and (10 o'clock and 15 minutes p.m.) the Senate took a recess, under the order previously entered, until 10 a.m. tomorrow, Tuesday, March 24, 1964.

NOMINATIONS

Executive nominations received by the Senate March 23 (legislative day of March 9), 1964:

IN THE AIR FORCE

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be second lieutenants

Abbott, William B., Jr., [redacted].
Acheson, Densel K., [redacted].
Adams, David A., [redacted].
Adams, David A., [redacted].
Adams, George B., Jr., [redacted]
Aiken, Gerald G., [redacted].
Alcini, Gerald L., [redacted].
Aldridge, Robert P., Jr., [redacted].

Allen, Glenn D., Jr., xxxxxxxxx.
Alsip, Thomas E., xxxxxxxxx.
Alston, Harold R., xxxxxxxxx.
Ambrose, William C., xxxxxxxxx.
Andersen, Jack T., xxxxxxxxx.
Andersen, Niels B., xxxxxxxxx.
Anderson, James E., xxxxxxxxx.
Anderson, Richard C., xxxxxxxxx.
April, Paul K., xxxxxxxxx.
Arendt, Melvin L., Jr., xxxxxxxxx.
Arnaiz, Donald R., xxxxxxxxx.
Arnold, John D., xxxxxxxxx.
Arnold, William E., xxxxxxxxx.
Arthur, Thomas W., xxxxxxxxx.
Asakura, Takazumi, Jr., xxxxxxxxx.
Ashe, Braxton W., xxxxxxxxx.
Asher, Laurence F., xxxxxxxxx.
Atchison, Richard M., xxxxxxxxx.
Attix, Harold B., Jr., xxxxxxxxx.
Atwater, Clayton F., xxxxxxxxx.
Atwood, Daryl G., xxxxxxxxx.
Ausman, William H., xxxxxxxxx.
Auth, Edward G., Jr., xxxxxxxxx.
Avizonis, Petras V., xxxxxxxxx.
Ayers, Norman D., xxxxxxxxx.
Ayers, Richard G., xxxxxxxxx.
Baber, Gary P., xxxxxxxxx.
Bailor, Ronald O., xxxxxxxxx.
Baily, Joseph J., III, xxxxxxxxx.
Baker, Guy F., xxxxxxxxx.
Baker, Marion K., xxxxxxxxx.
Baker, Roy T., xxxxxxxxx.
Baker, Willard L., Jr., xxxxxxxxx.
Balalis, Paul L., xxxxxxxxx.
Barazzone, Samuel W., xxxxxxxxx.
Barber, Hugh W., Jr., xxxxxxxxx.
Barker, John L., Jr., xxxxxxxxx.
Barker, William V. H., xxxxxxxxx.
Barkhurst, Paul D., xxxxxxxxx.
Barranco, Stephen S., xxxxxxxxx.
Barsanti, Ronald F., xxxxxxxxx.
Barsotti, Paul J., xxxxxxxxx.
Barthelemy, Richard P., xxxxxxxxx.
Barton, Roland S., xxxxxxxxx.
Barwell, Robert R., xxxxxxxxx.
Bates, Roy O., Jr., xxxxxxxxx.
Bauer, John D., xxxxxxxxx.
Bauernschub, John P., Jr., xxxxxxxxx.
Bauhahn, Paul E., xxxxxxxxx.
Bayer, Peter F., xxxxxxxxx.
Bayer, Roger T., xxxxxxxxx.
Bayless, William E., xxxxxxxxx.
Bazet, Randolph A., Jr., xxxxxxxxx.
Beam, Richard M., xxxx.
Beasley, Earle C., xxxxxxxxx.
Beaudry, Richard G., xxxxxxxxx.
Beers, L. N., xxxxxxxxx.
Beldy, Andrew J., xxxxxxxxx.
Bell, Jerald R., xxxxxxxxx.
Belter, Melvin J., xxxxxxxxx.
Bender, James F., xxxxxxxxx.
Benzel, Gerald D., xxxxxxxxx.
Bergmann, Harold W., xxxxxxxxx.
Bergstrom, Harry F., xxxxxxxxx.
Berkovich, James, III, xxxxxxxxx.
Berringer, Lynn T., xxxxxxxxx.
Berry, John S., xxxxxxxxx.
Bessett, George R., xxxxxxxxx.
Bettex, Leonard C., xxxxxxxxx.
Betz, Ernest J., xxxxxxxxx.
Bicknell, Ernest P., III, xxxxxxxxx.
Bielsker, Barry H., xxxxxxxxx.
Bigelow, David L., xxxxxxxxx.
Bird, Horace C., Jr., xxxxxxxxx.
Birkeland, Jorgen W., xxxxxxxxx.
Birkhead, Robert F., xxxxxxxxx.
Bischof, Albert, xxxxxxxxx.
Bishop, Halford R., xxxxxxxxx.
Bjorklund, Donald C., xxxxxxxxx.
Blackmon, Floyd J., xxxxxxxxx.
Blackner, Craig S., xxxxxxxxx.
Blair, Thomas W., Jr., xxxxxxxxx.
Blanchard, David W., xxxxxxxxx.
Blankenship, Charles P., xxxxxxxxx.
Bleakley, Robert M., xxxxxxxxx.
Block, Norman D., xxxxxxxxx.
Blue, David R., xxxxxxxxx.
Bodenheimer, Clyde E., xxxxxxxxx.
Bodmer, Charles E., xxxxxxxxx.
Bogart, Bruce C., xxxxxxxxx.
Bogart, Paul C., Jr., xxxxxxxxx.
Bogemann, Lawrence L., xxxxxxxxx.
Bohan, James A., xxxxxxxxx.
Boller, Ronald C., xxxxxxxxx.
Bond, Jack C., xxxxxxxxx.
Bond, John E., xxxxxxxxx.
Booker, William E., Jr., xxxxxxxxx.
Boortz, Eugene H., xxxxxxxxx.
Borden, Benton L., xxxxxxxxx.
Borts, Robert A., xxxxxxxxx.
Bostick, Neil D., xxxxxxxxx.
Bouchoux, Gerald E., xxxx.
Boursaw, Jon E., xxxxxxxxx.
Bova, Raymond F., xxxxxxxxx.
Bowen, Ray M., xxxxxxxxx.
Bowen, Robert H., Jr., xxxxxxxxx.
Bowles, Howard F., Jr., xxxxxxxxx.
Bowling, Gene D., xxxxxxxxx.
Bowling, Thomas J., xxxxxxxxx.
Bowman, Gary H., xxxxxxxxx.
Boyd, Charles H., xxxxxxxxx.
Boyke, William E., xxxxxxxxx.
Bradley, Kent L., xxxxxxxxx.
Brame, Charles E., xxxxxxxxx.
Branch, Kirby P., xxxxxxxxx.
Brandt, David A., xxxxxxxxx.
Bray, David C., xxxxxxxxx.
Bredenkamp, Barton C., xxxxxxxxx.
Breen, Walter M., xxxxxxxxx.
Brenizer, Robert F., xxxxxxxxx.
Bridge, Jason K., xxxxxxxxx.
Briggs, Dean M., xxxxxxxxx.
Brinkley, Vernon C., xxxxxxxxx.
Brinson, James E., xxxxxxxxx.
Briones, Richard J., xxxxxxxxx.
Brock, Billy J., xxxxxxxxx.
Brown, Alwyn K., Jr., xxxxxxxxx.
Brown, Dennis E., xxxxxxxxx.
Brown, Donald R., xxxxxxxxx.
Brown, Jerry E., xxxxxxxxx.
Brown, Richard C., xxxxxxxxx.
Brown, Robert B., xxxxxxxxx.
Brown, Robert C., xxxxxxxxx.
Brown, Ross E., xxxxxxxxx.
Brown, Sidney K., Jr., xxxxxxxxx.
Bruce, Donald W., xxxxxxxxx.
Bryant, Clarence J., xxxxxxxxx.
Bryant, William L., xxxxxxxxx.
Buckles, Alan W., xxxxxxxxx.
Bucksbee, John D., xxxxxxxxx.
Budris, Allan R., xxxxxxxxx.
Bullard, Barry W., xxxxxxxxx.
Bullard, Donald R., xxxxxxxxx.
Bundy, Wayne P., xxxxxxxxx.
Bunting, William D., Jr., xxxxxxxxx.
Burchett, Dewey E., Jr., xxxxxxxxx.
Burchfield, Joseph P., III, xxxxxxxxx.
Burdin, Thomas W., xxxxxxxxx.
Burgess, Thomas E., xxxxxxxxx.
Burnett, Jesse A., xxxxxxxxx.
Burns, Robert G., xxxxxxxxx.
Burns, Ronald A., xxxxxxxxx.
Busch, James C., xxxxxxxxx.
Bussman, William F., xxxxxxxxx.
Butler, Carl H., III, xxxxxxxxx.
Butler, John W., Jr., xxxxxxxxx.
Butler, Ronald L., xxxxxxxxx.
Buzard, Clifford S., xxxxxxxxx.
Byrd, Ronald H., xxxxxxxxx.
Byrne, Richard O., xxxxxxxxx.
Byrne, Stewart R., xxxxxxxxx.
Calder, David M., xxxxxxxxx.
Callaway, Patrick W., xxxxxxxxx.
Callison, Charles S., xxxxxxxxx.
Camerlo Ronald J., xxxx.
Campbell, Harvey C., xxxxxxxxx.
Campbell, James B., Jr., xxxxxxxxx.
Campbell, Jimmie R., xxxxxxxxx.
Campbell, Malcolm K., xxxxxxxxx.
Campbell, Thomas G., xxxxxxxxx.
Capps, Ted C., xxxxxxxxx.
Carder, James R., Jr., xxxxxxxxx.
Carleton, William A., Jr., xxxxxxxxx.
Carlin, David M., xxxxxxxxx.
Carlson, Charles M., II, xxxxxxxxx.
Carmack, Samuel M., Jr., xxxxxxxxx.
Carmichael, Guy G., Jr., xxxxxxxxx.
Carpenter, Kenneth M., xxxxxxxxx.
Carter, Thomas M., xxxxxxxxx.
Carver, James I., II, xxxxxxxxx.
Case, Carl T., xxxxxxxxx.
Casey, Walter H., xxxxxxxxx.
Casey, William E., Jr., xxxxxxxxx.
Cash, Harvey B., xxxxxxxxx.
Cashman, William J., Jr., xxxxxxxxx.
Casjens, David W., xxxxxxxxx.
Cason, Carl W., xxxxxxxxx.
Cassam, Richard P., xxxxxxxxx.
Castillo, Richard, xxxxxxxxx.
Caton, James G., xxxxxxxxx.
Cervetti, Franklin H., xxxxxxxxx.
Chamberlain, Robert G., xxxxxxxxx.
Chavez, Antonio I., Jr., xxxxxxxxx.
Cheeld, Charles M., III, xxxxxxxxx.
Chellman, Edward M., xxxxxxxxx.
Childress, Guy P., Jr., xxxxxxxxx.
Ching, Thomas T. Y., xxxxxxxxx.
Choulet, Robert A., xxxxxxxxx.
Christensen, Eldon H., xxxxxxxxx.
Church, James B., Jr., xxxxxxxxx.
Ciesko, Robert, xxxxxxxxx.
Claflin, Richard A., xxxxxxxxx.
Clanton, Norman G., xxxxxxxxx.
Clark, Benton C., III, xxxxxxxxx.
Clark, Leonard L., xxxxxxxxx.
Clegg, Donald H., xxxxxxxxx.
Cliatt, Edwin R., xxxxxxxxx.
Click, John E., xxxxxxxxx.
Clifton, Ralph D., xxxxxxxxx.
Clough, Charles A., xxxxxxxxx.
Coady, Robert F., xxxxxxxxx.
Coane, Charles C., xxxxxxxxx.
Coate, Larry C., xxxxxxxxx.
Cobb, Lawrence D., II, xxxxxxxxx.
Coble, William C., Jr., xxxxxxxxx.
Colbert, Lawrence W., xxxxxxxxx.
Cole, Charles M., Jr., xxxxxxxxx.
Cole, Peter W., xxxxxxxxx.
Coles, Louis E., xxxxxxxxx.
Collette, William R., xxxxxxxxx.
Collins, Billie K., xxxxxxxxx.
Colvin, Charles G., xxxxxxxxx.
Compton, Phil V., xxxxxxxxx.
Conely, James H., Jr., xxxxxxxxx.
Congleton, Charles W., xxxxxxxxx.
Congleton, Roger V., xxxxxxxxx.
Conlan, James T., xxxxxxxxx.
Connor, Laurence N., Jr., xxxxxxxxx.
Conrad, Joseph P., xxxxxxxxx.
Constant, Dennis L., xxxxxxxxx.
Conway, Melvin E., xxxxxxxxx.
Cook, James T., xxxxxxxxx.
Cook, Loyal S., xxxxxxxxx.
Cooke, George E., xxxxxxxxx.
Cooksey, Mellwood, Jr., xxxxxxxxx.
Cooper, Frank B., xxxxxxxxx.
Cooper, Horace J., xxxxxxxxx.
Cornett, Donald J., xxxxxxxxx.
Costa, John J., xxxxxxxxx.
Costa, Nicholas P. Jr., xxxxxxxxx.
Cottrell, William A., xxxxxxxxx.
Couch, Robert P., xxxxxxxxx.
Cougill, Robert P., xxxxxxxxx.
Couvillion, Charles E., xxxxxxxxx.
Cowan, Bruce E., xxxxxxxxx.
Cox, Albert G., xxxxxxxxx.
Cox, Claude D., xxxxxxxxx.
Cox, Homer M. Jr., xxxxxxxxx.
Cozzens, John J., xxxxxxxxx.
Craddock, Joe P., xxxxxxxxx.
Crain, Charles R., xxxxxxxxx.
Crane, Robert D., Jr., xxxxxxxxx.
Cranmer, Roger L., xxxxxxxxx.
Crawford, Charles L., xxxxxxxxx.
Cribbs, John A. Jr., xxxxxxxxx.
Crossley, Robert W., xxxxxxxxx.
Crossman, Charles K., xxxxxxxxx.
Crowley, Jackson O., xxxxxxxxx.
Croy, Otto E. Jr., xxxxxxxxx.
Cruickshank, John P., xxxxxxxxx.
Crump, Glendon R., xxxxxxxxx.
Culhane, Peter K., xxxxxxxxx.
Culver, John N., xxxxxxxxx.
Cuneo, William J., Jr., xxxxxxxxx.
Cunningham, Robert G., xxxxxxxxx.
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Cuthbertson, David M., xxxxxxxxx.
Cutney, John M., xxxxxxxxx.
Czech, Felix, xxxxxxxxx.

Dalton, Jerold O., xxxxxxxxx.
Daly, Robert M., xxxxxxxxx.
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Demel, Kenneth J., xxxxxxxxx.
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Derks, Eugene L., xxxxxxxxx.
Devaney, James E., xxxxxxxxx.
Diamond, Verl K., xxxxxxxxx.
Dichte, Rudolph J., xxxxxxxxx.
Dick, Charles R., xxxxxxxxx.
Dierlam, Mark J., xxxxxxxxx.
Dieterly, Duncan L., xxxxxxxxx.
Dietz, Frank E., Jr., xxxxxxxxx.
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Dorsey, James E., Jr., xxxxxxxxx.
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Guidry, Roland D., xxxxxxxxx.
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Guyton William L., xxxxxxxxx.
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Huston, Lawrence E., xxxxxxxxx.
Hutchinson, Robert L., xxxxxxxxx.
Hyder, James T., II, xxxxxxxxx.
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Jackson, Andrew H., xxxxxxxxx.
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Jaeckle, John T., xxxxxxxxx.
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Janka, Paul J., xxxxxxxxx.
Jarrell, Thomas H., xxxxxxxxx.
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Jellison, Robert B., xxxxxxxxx.
Jenkins, Paul W., xxxxxxxxx.
Jennings, Thomas T., xxxxxxxxx.
Jensen, Harold O., xxxxxxxxx.
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Johnsen, Gerald A., xxxxxxxxx.
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Johnson, Bryant T., xxxxxxxxx.
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Johnston, Howard H., xxxxxxxxx.
Jones, Billy S., xxxxxxxxx.
Jones, George, xxxxxxxxx.
Jones, Lionel T., Jr., xxxxxxxxx.
Jones, Max K., xxxxxxxxx.
Jones, Needham B., xxxxxxxxx.
Jones, Nicholas, xxxxxxxxx.
Jones, Phillip T., xxxxxxxxx.
Jones, Ray E., xxxxxxxxx.
Jones, Robert V., xxxxxxxxx.
Jordan, Malcolm E., xxxxxxxxx.
Josey, James W., xxxxxxxxx.
Judge, Paul J., xxxxxxxxx.
Judy, Richard W., xxxxxxxxx.
Jue, Kam B., xxxxxxxxx.
Justice, Donald H., xxxxxxxxx.
Kadunce, Daniel L., xxxxxxxxx.
Kagan, Stanly S., xxxxxxxxx.
Kahla, Jeffery D., xxxxxxxxx.
Kain, John F., xxxxxxxxx.
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Kasperbauer, James C., xxxxxxxxx.
Kawamoto, David K., xxxxxxxxx.
Keech, Marvin E., xxxxxxxxx.
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Kimble, James L., xxxxxxxxx.
Kimick, Ray W., xxxxxxxxx.
Kincaid, James W., Jr., xxxxxxxxx.
Kindurys, Victor A., xxxxxxxxx.
King, Fitzwilliam W., xxxxxxxxx.
King, George S., Jr., xxxxxxxxx.
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Kitchen, Joseph L., xxxxxxxxx.
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Knebel, John A., xxxxxxxxx.
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Kormanik, James R., xxxxxxxxx.
Kosem, Marion, xxxxxxxxx.
Koski, Kenneth G., xxxxxxxxx.
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Lamb, William C., xxxxxxxxx.
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Lapaglia, Salvatore R., xxxxxxxxx.
Larkins, James T., xxxxxxxxx.
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Lawrence, Harley E., Jr., xxxxxxxxx.
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Lefebvre, Normand I., xxxxxxxxx.
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Leich, Frederick H., xxxxxxxxx.
Lenahan, Roderick, xxxxxxxxx.
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Liepins, Andris I., xxxxxxxxx.
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Mandeville, James J., xxxxxxxxx.
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McLester, Judson C., III, xxxxxxxxx.
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McMurray, Louis E., xxxxxxxxx.
McNeil, Earnest E., Jr., xxxxxxxxx.
McRae, David S., xxxxxxxxx.
McRae, Hamilton E., III, xxxxxxxxx.
Mead, Francis P., xxxxxxxxx.
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Milner, Lawrence A., xxxxxxxxx.
Mims, Percy D., xxxxxxxxx.
Mitchell, Jerome F., xxxxxxxxx.
Mitchell, Lyle D., xxxxxxxxx.
Mitchell, Theodore L., xxxxxxxxx.
Modolo, Jerome M., xxxxxxxxx.
Molnar, Charles E., xxxxxxxxx.
Monroe, David R., xxxxxxxxx.
Monsees, James E., xxxxxxxxx.
Montgomery, Joe L., xxxxxxxxx.
Mooney, Thomas F., xxxxxxxxx.
Moore, Frank E., xxxxxxxxx.
Moore, Thomas K., xxxxxxxxx.
Moore, Warren A., xxxxxxxxx.
Moran, Robert T., xxxxxxxxx.
Morgan, James P., xxxxxxxxx.
Moriarty, Jerald T., xxxxxxxxx.
Mormino, Lawrence D., xxxxxxxxx.
Morphew, Robin T., xxxxxxxxx.
Morrell, David N., xxxxxxxxx.
Morris, Dan R., xxxxxxxxx.
Morrow, John P., xxxxxxxxx.
Morton, Harold E., Jr., xxxxxxxxx.
Morton, John T., xxxxxxxxx.
Moser, Corwin A., Jr., xxxxxxxxx.
Moser, Robert W., xxxxxxxxx.
Mosley, James L., xxxxxxxxx.
Muehring, Gene H., xxxxxxxxx.
Muench, John M., xxxxxxxxx.
Mullaney, Gerald A., xxxxxxxxx.
Mullen, Ronald E., xxxxxxxxx.
Mullican, Robert W., xxxxxxxxx.
Mullin, William J., xxxxxxxxx.
Mullooly, William E., xxxxxxxxx.
Munnerlyn, Charles R., xxxxxxxxx.
Munro, Kenneth J., Jr., xxxxxxxxx.
Munson, William E., xxxxxxxxx.
Murphy, Edward V., xxxxxxxxx.
Murphy, Jack L., xxxxxxxxx.
Murray, William L., xxxxxxxxx.
Myers, George H., III, xxxxxxxxx.
Myers, Jerry L., xxxxxxxxx.
Naftanel, John C., xxxxxxxxx.
Najman, Mirko, xxxxxxxxx.
Nakagawa, Wayne A., xxxxxxxxx.
Namaksy, Adolph J., Jr., xxxxxxxxx.
Nash, Philip B., xxxxxxxxx.
Nations, William O., xxxxxxxxx.
Natterstad, Jerry H., xxxxxxxxx.
Nealy, John E., xxxxxxxxx.
Neel, Wayne J., xxxxxxxxx.
Neff, James F., Jr., xxxxxxxxx.
Neil, Joe R., Jr., xxxxxxxxx.
Nelson, David L., xxxxxxxxx.
Nemecek, Glen E., xxxxxxxxx.
Nettleton, John G., xxxxxxxxx.
Nevin, Charles E., xxxxxxxxx.
New, Gary D., xxxxxxxxx.
Newhall, Frederick C., xxxxxxxxx.
Newman, Kenneth R., xxxxxxxxx.
Nicewarner, Charles E., xxxxxxxxx.
Nichols, Charles L., xxxxxxxxx.
Nichols, James B., xxxxxxxxx.
Nichols, Laymon H., xxxxxxxxx.
Nichols, Neil C., xxxxxxxxx.
Nickel, Edward D., xxxxxxxxx.
Nielsen, Jerry L., xxxxxxxxx.
Niemann, William J., xxxxxxxxx.
Niessen, Walter R., xxxxxxxxx.
Nixon, James A., xxxxxxxxx.
Noble, James D., Jr., xxxxxxxxx.
Nolen, Michael E., xxxxxxxxx.
Nophsker, Howard G., xxxxxxxxx.
Norris, Thomas E., xxxxxxxxx.
Norwood, William B., xxxxxxxxx.
Nottingham, Wesley D., xxxxxxxxx.
Novotny, Frank J., Jr., xxxxxxxxx.
Nuccio, Antonino J., xxxxxxxxx.
Obenchain, Roger W., xxxx.
Ober, Russell T., III, xxxxxxxxx.
Oberg, Robert R., xxxxxxxxx.
O'Berry, Carl G., xxxxxxxxx.
O'Brien, Lawrence J., xxxxxxxxx.
O'Brien, Jaul C., xxxxxxxxx.
O'Brien, Terrence E., xxxxxxxxx.
O'Connell, Donald L., xxxxxxxxx.
O'Connor, Edward A., Jr., xxxxxxxxx.
Ohl, Joseph A., xxxxxxxxx.
Ohlemeier, Dennis L., xxxx.
Ohmsieder, William H., xxxxxxxxx.
Olander, Keith J., xxxxxxxxx.
Olesek, Frederic W., xxxxxxxxx.
Olgeaty, Edward C., xxxxxxxxx.
Oliver, John D., xxxxxxxxx.
Olson, Gerald D., xxxxxxxxx.
O'Neal, Donald O., xxxxxxxxx.
O'Neill, Brendan D., xxxxxxxxx.
Orbeck, Einar A., xxxxxxxxx.
Ordes, Diane E., xxxx.
O'Reilly, Patrick J., xxxxxxxxx.
Orrill, Richard A., xxxxxxxxx.
Osborne, Carl R., xxxxxxxxx.
Otero, Richard J., xxxxxxxxx.
O'Toole, Richard T., xxxxxxxxx.
O'Toole, Robert M., xxxxxxxxx.
Otway, Leo R., xxxxxxxxx.
Overby, Walter C., xxxxxxxxx.
Owings, Will L., Jr., xxxxxxxxx.
Palm, Ronald F., xxxxxxxxx.
Palmerino, Francis A., xxxxxxxxx.
Parham, Ronald D., xxxxxxxxx.
Paris, Jack F., xxxxxxxxx.
Parker, David A., xxxxxxxxx.
Parker, Don, xxxxxxxxx.
Parkhurst, Robert H., xxxxxxxxx.
Parrett, Rufus N., xxxxxxxxx.
Parrish, James L., xxxxxxxxx.
Pastor, Ronald C., xxxxxxxxx.
Patrick, James R., Jr., xxxxxxxxx.
Patrick, Rayford P., xxxxxxxxx.
Pawlick, Joseph F., Jr., xxxxxxxxx.
Payne, Bobby J., xxxxxxxxx.
Payne, Glenn D., xxxxxxxxx.
Payne, James H., Jr., xxxxxxxxx.
Pearce, Frederick H., Jr., xxxxxxxxx.
Pearce, James M., xxxxxxxxx.
Peck, Abner W., xxxxxxxxx.
Peck, Frank E., xxxxxxxxx.
Penasack, John P., xxxxxxxxx.
Perkins, Lee R., xxxxxxxxx.
Perkins, Sheppard E., Jr., xxxxxxxxx.
Perlmutter, Jay M., xxxxxxxxx.
Perry, David C., xxxxxxxxx.
Perry, Glenn G., Jr., xxxxxxxxx.
Petersen, Roland N., xxxxxxxxx.
Peterson, Nelda M., xxxx.
Peterson, Peter F., xxxxxxxxx.
Petrie, Frank L., Jr., xxxxxxxxx.
Pewthers, Morris G., xxxxxxxxx.
Pfeifle, Ward A., xxxxxxxxx.
Phillips, Lawrence, xxxxxxxxx.
Phillips, Nicholas A., xxxxxxxxx.
Phillips, Otis D., III, xxxxxxxxx.
Phillips, William W., xxxxxxxxx.
Pierce, Cyril M., xxxxxxxxx.
Pierog, Joseph A., xxxxxxxxx.

Pinckney, Scott S., XXXXXXXXX.
Pittman, Robert, XXXXXXXXX.
Platts, Richard P., XXXXXXXXX.
Plunkett, Richard A., XXXXXXXXX.
Poates, John T., XXXXXXXXX.
Poftak, Frederick J., XXXXXXXXX.
Pohlen, Michael F., XXXXXXXXX.
Poley, Paul W., XXXXXXXXX.
Polick, Melvin E., XXXXXXXXX.
Pool, Nicholas E., XXXXXXXXX.
Poole, Jerry A., XXXXXXXXX.
Pope, William B., XXXXXXXXX.
Porter, Charles E., XXXXXXXXX.
Porter, David W., XXXXXXXXX.
Porter, Jimmie, XXXXXXXXX.
Porter, William J., XXXXXXXXX.
Poth, John E., XXXXXXXXX.
Potts, Dennis W., XXXXXXXXX.
Powell, Arthur A., XXXXXXXXX.
Powell, John P., XXXXXXXXX.
Powell, Vernon C., XXXXXXXXX.
Preiss, Terry D., XXXXXXXXX.
Preston, Harry T., XXXXXXXXX.
Previty, Anthony P., XXXXXXXXX.
Price, John D., XXXXXXXXX.
Priebel, Elmer A., XXXXXXXXX.
Prima, Paavo, XXXXXXXXX.
Pringle, Frederick C., XXXXXXXXX.
Puckett, George G. S., XXXX
Pulicella, George J., XXXXXXXXX.
Pustis, Joseph E., XXXXXXXXX.
Pylate, Patrick W., XXXXXXXXX.
Quantock, Russell A., XXXXXXXXX.
Quick, David H., XXXXXXXXX.
Rackiewicz, Daniel C., XXXXXXXXX.
Raig, Eero, XXXXXXXXX.
Ramm, Edmund C., XXXXXXXXX.
Ramsey, Samuel D., XXXXXXXXX.
Ranson, William J., XXXX
Rapalee, Ernest W., Jr., XXXXXXXXX.
Rasor, Richard D., XXXX
Raven, John B., XXXXXXXXX.
Raymer, Thomas E., XXXXXXXXX.
Readnour, James L., XXXXXXXXX.
Reagan, William C., XXXXXXXXX.
Reazer, George M., III, XXXXXXXXX.
Rebstock, James E., XXXXXXXXX.
Record, James F., XXXXXXXXX.
Redding, Michael J., Jr., XXXXXXXXX.
Reeves, Oscar G., XXXXXXXXX.
Reid, Albert R., XXXX
Reid, Charles L., XXXXXXXXX.
Reid, Daniel F., XXXXXXXXX.
Reid, James M., Jr., XXXX
Reinecke, William G., XXXXXXXXX.
Reining, Rodney J., XXXX
Rekart, Jerome A., XXXXXXXXX.
Remde, Richard H., XXXXXXXXX.
Remington, Bobby R., XXXXXXXXX.
Rentz, Donald V., XXXXXXXXX.
Repak, Harry J., XXXXXXXXX.
Reschak, Robert J., XXXXXXXXX.
Restuccia, Giuseppe, XXXXXXXXX.
Reynolds, Phillip L., XXXXXXXXX.
Rhame, James L., Jr., XXXXXXXXX.
Rice, Lawrence C., XXXXXXXXX.
Richards, Frederick F., Jr., XXXXXXXXX.
Richardson, Everett B., XXXXXXXXX.
Richardson, Tommy L., XXXXXXXXX.
Richman, Gerald W., XXXXXXXXX.
Ridgway, Robert S., XXXXXXXXX.
Riecker, Robert E., XXXXXXXXX.
Riedel, Jay E., XXXXXXXXX.
Riggs, Robert E., XXXXXXXXX.
Riley, Joseph J., Jr., XXXXXXXXX.
Rinehart, Herbert M., Jr., XXXXXXXXX.
Rist, David J., XXXXXXXXX.
Roberts, David E., XXXXXXXXX.
Roberts, James E., XXXXXXXXX.
Roberts, Paul A., XXXXXXXXX.
Roberts, Richard A., XXXXXXXXX.
Robinson, Virgil A., Jr., XXXXXXXXX.
Robnett, Dean E., XXXXXXXXX.
Rocky, Robert E., XXXXXXXXX.
Rodgers, William M., XXXXXXXXX.
Roeder, George L., XXXXXXXXX.
Roehrig, Joseph A., III, XXXXXXXXX.
Rohrbough, Stephen W., XXXXXXXXX.
Rohrer, Ralph, Jr., XXXXXXXXX.
Rose, Warren S., Jr., XXXXXXXXX.
Rosenbach, William E., XXXXXXXXX.
Rosencrans, Herbert C., Jr., XXXXXXXXX.
Rosenthal Herbert G., XXXXXXXX
Ross, Bruce E., XXXXXXXXX.
Ross, James A., Jr., XXXXXXXXX.
Rosser, James A., Jr., XXXXXXXXX.
Rossiter, William W., XXXX
Rossley, Paul R., XXXXXXXXX.
Roth, Louis L., XXXXXXXXX.
Rothell, Ross D., Jr., XXXXXXXXX.
Rothrock, James G., XXXXXXXXX.
Rothrock, Kent G., XXXXXXXXX.
Rounds, Gordon M., XXXXXXXXX.
Rowell, Arlington L., XXXXXXXXX.
Ruana, Rudolph M., XXXXXXXXX.
Rubstein, Peter A., XXXXXXXXX.
Ruggles, Bertrand F., XXXXXXXXX.
Ruggles, Charles B., XXXXXXXXX.
Ruschmeier, Peter F., XXXXXXXX.
Rushforth, Charles P., III, XXXXXXXXX.
Ruth, Edward C., Jr., XXXXXXXXX.
Rykard, Billy B., XXXXXXXXX.
Saber, James A., XXXXXXXXX.
Sadovsky, Edward M., XXXXXXXXX.
Sailer, Allen J., XXXXXXXXX.
Sample, Robert J., XXXXXXXXX.
Sanders, Jack N., Jr., XXXXXXXXX.
Sanders, Richard D., XXXXXXXXX.
Sanders, William D., XXXXXXXXX.
Sandvik, James E., XXXXXXXXX.
Sanford, Frederick E., XXXXXXXXX.
Sanford, Glenn F., XXXXXXXXX.
Sanford, Lonnie T., III, XXXXXXXXX.
Santore, Robert B., XXXXXXXXX.
Sather, Harold D., XXXXXXXXX.
Sawyer, Leon E., XXXXXXXXX.
Sawyer, William E., XXXXXXXXX.
Scaggs, Roger T., XXXX
Schachman, Alan, XXXXXXXXX.
Schaefer, Gary O., XXXXXXXXX.
Schaefer, Robert C., XXXXXXXXX.
Schaefer, William J., XXXXXXXXX.
Schang, Joseph F., XXXXXXXXX.
Schatz, Harold R., XXXXXXXXX.
Schauer, Lester R., XXXXXXXXX.
Scheu, Robert A., XXXXXXXXX.
Schlereth, Peter H., XXXXXXXXX.
Schlue, Joseph W., XXXXXXXXX.
Schmarje, David P., XXXXXXXXX.
Schmidt, Frederick E., XXXXXXXXX.
Schmitz, Charles L., XXXXXXXXX.
Schmutzler, David L., XXXXXXXXX.
Schneck, Thomas, Jr., XXXXXXXXX.
Schoeffler, Frederick W., XXXXXXXXX.
Scholes, William O., XXXXXXXXX.
Scholz, Alfred F., XXXXXXXXX.
Schott, Delyle J., XXXXXXXXX.
Schrade, Bobby D., XXXXXXXXX.
Schroeder, Lowell J., XXXXXXXXX.
Schulz, Raymond E., XXXXXXXXX.
Schulze, Carl J., XXXXXXXXX.
Schulze, David L., XXXXXXXXX.
Schuneman, Stephen T., XXXXXXXXX.
Schwalm, Arthur E., XXXXXXXXX.
Scott, Lynn P., XXXXXXXXX.
Scott, William T., XXXXXXXXX.
Sealy, Robert B., XXXXXXXXX.
Seidt, Richard J., XXXXXXXXX.
Seifert, Karl E., XXXXXXXXX.
Seip, Barry L., XXXXXXXXX.
Senn, Gene B., XXXXXXXXX.
Sessoms, William R., Jr., XXXXXXXXX.
Sewell, Billy C., XXXXXXXXX.
Sewell, Mario W., XXXXXXXXX.
Shackson, James L., XXXXXXXXX.
Shane, Larry L., XXXXXXXXX.
Sharer, Joyce R., XXXX
Shea, Robert, XXXXXXXXX.
Sheets, Robert C., XXXXXXXXX.
Shelton, Harold A., XXXXXXXXX.
Shepherd, Robert L., XXXXXXXXX.
Sheppard, Richard R., XXXXXXXXX.
Shera, Thomas L., XXXXXXXXX.
Sherman, Frederic G., XXXXXXXXX.
Shields, David L., XXXXXXXXX.
Shine, Anthony C., XXXXXXXXX.
Shivers, Walter W., XXXXXXXXX.
Shockley, Jackson C., XXXX
Shonts, John M., XXXXXXXXX.
Short, Charles D., XXXXXXXXX.
Shotz, Donald S., XXXXXXXXX.
Shuler, Henry K., XXXXXXXXX.
Shupp, Richard W., XXXXXXXXX.
Shurley, John R., III, XXXXXXXXX.
Siders, Marvyn J., XXXXXXXXX.
Siegel, Charles J., XXXXXXXXX.
Sikorski, Paul M., XXXXXXXXX.
Silberberger, Leon R., XXXXXXXXX.
Sill, Noel K., XXXXXXXXX.
Simko, Edward J., XXXXXXXXX.
Simpson, Laird E., XXXXXXXXX.
Sims, John N., XXXXXXXXX.
Sinclair, George M., XXXXXXXXX.
Sisk, Jerome M., XXXXXXXXX.
Sittinger, Edward J., XXXXXXXXX.
Skeels, Ronald D., XXXXXXXXX.
Slater, Richard G., XXXXXXXXX.
Smallwood, Richard, XXXXXXXXX.
Smart, Wayne G., XXXXXXXXX.
Smeby, Alan J., XXXXXXXXX.
Smedley, David R., XXXXXXXXX.
Smedley, Gerald F., XXXXXXXXX.
Smith, Arthur D., XXXXXXXXX.
Smith, Bridges W., Jr., XXXXXXXXX.
Smith, David W., XXXXXXXXX.
Smith, Gary R., XXXXXXXXX.
Smith, John C., XXXXXXXXX.
Smith, John L., XXXXXXXXX.
Smith, Joseph E., XXXXXXXXX.
Smith, Ned L., XXXXXXXXX.
Smith, Richard P., XXXXXXXXX.
Smith, Rowland F., Jr., XXXXXXXXX.
Smith, William C., XXXXXXXXX.
Smith, William H., II, XXXXXXXXX.
Smithe, Lee B., Jr., XXXXXXXXX.
Smrek, Walter J., XXXXXXXXX.
Solum, James L., XXXXXXXXX.
Sommer, Arthur B., XXXXXXXXX.
Sowa, Joseph P., XXXXXXXXX.
Spaan, James T., XXXXXXXXX.
Spence, Jerry M., XXXXXXXXX.
Spence, Maynard R., XXXXXXXXX.
Spencer, Bennie F., XXXXXXXXXX.
Spencer, Exton L., XXXXXXXXX.
Spencer, Gary K., XXXXXXXXX.
Spencer, John C., XXXXXXXXX.
Spencer, Richard L., Jr., XXXXXXXXX.
Spicer, Richard C., XXXXXXXXX.
Spodnick, Joseph, XXXXXXXXX.
Staden, Arthur L., XXXXXXXXX.
Stanbery, Charles E., XXXXXXXXX.
Starbuck, Ronald J., XXXXXXXXX.
Starkey, James F., Jr., XXXXXXXXX.
Starnes, Thomas E., Jr., XXXXXXXXX.
Steck, Charles G., XXXXXXXXX.
Steckler, Richard H., XXXXXXXXX.
Stefferud, Curtis M., XXXXXXXXX.
Stein, Ronald D., XXXXXXXXX.
Steinig, Norman B., Jr., XXXXXXXXX.
Stenback, Paul R., XXXXXXXXX.
Stenson, Stephen S., XXXXXXXXX.
Stetson, John A., XXXXXXXXX.
Stevenson, Samuel J., XXXXXXXXX.
Stewart, Leslie W., Jr., XXXXXXXXX.
Stewart, Roger I., XXXXXXXXX.
Stice, William H., XXXXXXXXX.
Stock, Harold S., XXXXXXXXX.
Stoffel, Charles L., XXXXXXXXX.
Stohosky, Francis J., III, XXXXXXXXX.
Stoll, Carl A., XXXXXXXXX.
Stolp, James T., XXXXXXXXX.
Stouder, Kyle, XXXXXXXXX.
Stremlau, Leon E., XXXXXXXXX.
Strickland, Billy E., XXXXXXXXX.
Strong, Lowell B., XXXXXXXXX.
Strong, Ronald D., XXXXXXXXX.
Stroud, Walter G., XXXXXXXXX.
Studer, William A., XXXXXXXXX.
Stump, Kenneth H., XXXXXXXXX.
Sturniolo, Lawrence R., XXXXXXXXX.
Suits, Norman L., XXXXXXXXX.
Sumner, William A., Jr., XXXXXXXXX.
Sunderman, Charles K., XXXXXXXXX.
Sung, William K., XXXXXXXXX.
Surles, Becky F., XXXX
Susi, Ronald A., XXXXXXXXX.
Swanson, Harold J., Jr., XXXXXXXXX.
Swanson, John W., Jr., XXXXXXXXX.
Sweazy, Stewart B., XXXXXXXXX.
Swiler, William G., XXXXXXXXX.
Symons, John R., XXXXXXXXX.
Synnott, Thomas W., III, XXXXXXXXX.
Talbert, Roger A., XXXXXXXXX.

Tall, Raymond R., xxxxxxxxx.
Tateishi, William N., xxxxxxxxx.
Taylor, Edwin H., xxxxxxxxx.
Taylor, John H., xxxxxxxxx.
Taylor, Robert G., xxxxxxxxx.
Taylor, Thomas L., xxxxxxxxx.
Teague, Harold K., Jr., xxxxxxxxx.
Terry, Sidney C., xxxxxxxxx.
Thackray, Robert G., xxxxxxxxx.
Theobald, Robert E., Jr., xxxxxxxxx.
Thomas, James G., xxxxxxxxx.
Thomas, Lowell D., xxxxxxxxx.
Thomas, Richard N., xxxxxxxxx.
Thomas, Richard W., xxxxxxxxx.
Thompson, Edwin J., xxxxxxxxx.
Thompson, Gary W., xxxxxxxxx.
Thomson, David W., xxxxxxxxx.
Thomson, Ian R., xxxxxxxxx.
Thuma, Thomas C., xxxxxxxxx.
Thurston, Jerry L., xxxxxxxxx.
Tidrick, Ralph L., xxxxxxxxx.
Tilford, Philip B., xxxxxxxxx.
Tilghman, Dorothy J., xxxx
Tilton, Charles E., Jr., xxxxxxxxx.
Tilton, William T., xxxxxxxxx.
Timmerman, Joe A., xxxxxxxxx.
Tinsman, John L., Jr., xxxxxxxxx.
Tod, George R., xxxxxxxxx.
Todd, Jerry C., xxxxxxxxx.
Todd, Rodney L., xxxxxxxxx.
Tokar, Paul, xxxxxxxxx.
Tokarski, John T., Jr., xxxxxxxxx.
Toler, John R., xxxxxxxxx.
Tomb, Robert, xxxxxxxxx.
Tomme, Warren J., xxxxxxxxx.
Tommey, Charles D., xxxxxxxxx.
Torbenson, Robert V., xxxxxxxxx.
Torkelson, Roger A., xxxxxxxxx.
Torline, Norbert K., xxxxxxxxx.
Toups, Leon H., xxxx
Toups, Roland M., xxxxxxxxx.
Trautschold, J. F., Jr., xxxxxxxxx.
Travis, George S., Jr., xxxxxxxxx.
Tribo, Ronald J., xxxxxxxxx.
Triquart, William A., xxxxxxxxx.
Tumey, Lincoln E., xxxxxxxxx.
Turner, Louis W., xxxxxxxxx.
Turner, Mary N., xxxx
Underwood, Charles R., xxxxxxxxx.
Unverzagt, John G., xxxxxxxxx.
Uribe, Henry T., xxxxxxxxx.
Valva, John G., xxxxxxxxx.
Vanbrunt, Donald L., xxxxxxxxx.
Vanbrunt, Peter R., xxxxxxxxx.
Vanden Bos, Lawrence J., xxxxxxxxx.
Vanderbilt, William D., xxxxxxxxx.
Vanderhyde, Kenneth D., xxxxxxxxx.
Van der Sluys, Peter C., xxxxxxxxx.
Vanhecke, Carl D., Jr., xxxxxxxxx.
Vecchio, Raymond R., xxxxxxxxx.
Vellturo, Anthony F., xxxxxxxxx.
Vickers, Franklin A., Jr., xxxxxxxxx.
Viele, Brian N., xxxxxxxxx.
Vilensons, John J., xxxxxxxxx.
Vining, Robert L., xxxxxxxxx.
Vinup, Glen W., xxxxxxxxx.
Vipond, George H., xxxxxxxxx.
Visel, David P., xxxxxxxxx.
Vitito, Thomas E., xxxxxxxxx.
Vlasek, James L., xxxxxxxxx.
Vogtli, Joseph H., Jr., xxxxxxxxx.
Volers, William C., xxxxxxxxx.
Voland, Paul M., xxxxxxxxx.
Volden, James O., xxxxxxxxx.
Voorhis, Byron E., xxxxxxxxx.
Wagener, Wayne F., xxxxxxxxx.
Wagley, Ardith N., xxxxxxxxx.
Wagner, Albert M., xxxxxxxxx.
Wagner, Gervase J., xxxxxxxxx.
Wagner, Richard J., xxxxxxxxx.
Wagner, Robert Z., xxxxxxxxx.
Wahl, William R., xxxxxxxxx.
Wajda, Walter L., xxxxxxxxx.
Walcott, Eustis, Jr., xxxxxxxxx.
Walder, Glen W., xxxxxxxxx.
Waldron, Lynn K., xxxxxxxxx.
Waldrop, William R., xxxxxxxxx.
Walker, Arthur B. C., Jr., xxxxxxxxx.
Walker, David E., xxxxxxxxx.
Walker, Edgar S., xxxxxxxxx.
Wall, Robert L., xxxx
Walla, Gary O., xxxxxxxxx.
Walla, Gerald J., xxxxxxxxx.
Waller, Robert W., xxxxxxxxx.
Wallgren, Garner G., xxxxxxxxx.
Walsh, Robert M., xxxxxxxxx.
Walter, Larry R., xxxxxxxxx.
Walters, Arthur E., xxxxxxxxx.
Walther, Glen P., xxxxxxxxx.
Walton, Richard C., xxxxxxxxx.
Walton, Willis R., xxxxxxxxx.
Wantiez, Harold N., xxxxxxxxx.
Ward, Lucius M., xxxxxxxxx.
Ward, Willis N., xxxxxxxxx.
Watkins, Franklin W., xxxxxxxxx.
Way, James P., xxxxxxxxx.
Webb, Keith W., xxxxxxxxx.
Webb, William J., xxxxxxxxx.
Weber, Glen D., xxxxxxxxx.
Weber, Richard L., xxxxxxxxx.
Weber, Thomas R., xxxxxxxxx.
Weinberg, Alfred, xxxxxxxxx.
Weinhagen, George L., xxxxxxxxx.
Wellington, Leonard E., Jr., xxxxxxxxx.
Wells, Frank F., Jr., xxxxxxxxx.
Wells, John H., xxxxxxxxx.
Wells, Sidney R., xxxxxxxxx.
Wells, Walter E., xxxxxxxxx.
Welsh, Donald M., xxxxxxxxx.
Welsh, Warren P., xxxxxxxxx.
Wendt, Douglas M., xxxxxxxxx.
Werner, Robert M., xxxxxxxxx.
Wessinger, Lon H., Jr., xxxxxxxxx.
Westbrook, Albert E., xxxxxxxxx.
Westenhaver, Herbert, xxxxxxxxx.
Westerberg, Alfred, Jr., xxxxxxxxx.
Wetherholt, John R., xxxxxxxxx.
Weyland, Drew C., xxxxxxxxx.
Whaley, Edward K., xxxxxxxxx.
Whaley, John M., xxxxxxxxx.
Wharton, Thomas W., xxxxxxxxx.
Wheat, Warren D., xxxxxxxxx.
Wheeler, Joseph C., xxxxxxxxx.
Whichard, Willis K., Jr., xxxxxxxxx.
Whisonant, Clinton T., xxxxxxxxx.
Whistler, Lehman P., xxxxxxxxx.
Whitcomb, Harold C., xxxxxxxxx.
White, George W., xxxxxxxxx.
White, Gurney D., xxxxxxxxx.
Whitehead, John P., Jr., xxxxxxxxx.
Whitteker, Richard L., xxxxxxxxx.
Whittenberger, Steven J., xxxxxxxxx.
Whittier, Henry R. J., xxxx
Wichman, William M., xxxxxxxxx.
Wickham, Kenneth J., xxxxxxxxx.
Wietzke, John E., xxxxxxxxx.
Wilcox, David E., xxxxxxxxx.
Wilcox, Smith B., xxxxxxxxx.
Wilkie, Jack E., xxxxxxxxx.
Wilks, Linus R., xxxxxxxxx.
Willard, John D., Jr., xxxxxxxxx.
Williams, James C., xxxxxxxxx.
Williams, Jerry C., xxxxxxxxx.
Williams, Jimmy L., xxxxxxxxx.
Williams, Michael C., xxxxxxxxx.
Williams, Perry E., xxxxxxxxx.
Williams, Richard L., xxxxxxxxx.
Williams, Robert M., xxxxxxxxx.
Williams, Robert W., xxxxxxxxx.
Wilson, Frank S., xxxxxxxxx.
Wilson, Fred A., Jr., xxxxxxxxx.
Wilson, James R., xxxxxxxxx.
Wilson, James R., xxxxxxxxx.
Wilson, John L., xxxxxxxxx.
Wilson, Larry F., xxxxxxxxx.
Wilson, William R., xxxx
Wimpee, Victor R., xxxxxxxxx.
Winkler, Anthony J., xxxxxxxxx.
Winstead, Robert L., xxxxxxxxx.
Winston, Charles C., III, xxxxxxxxx.
Wise, Phillip R., xxxxxxxxx.
Wiser, Joe B., xxxx
Wisner, Warren M., xxxxxxxxx.
Wisniewski, Thomas D., xxxxxxxxx.
Withey, Thomas G., xxxx
Woempner, Stanley W., xxxxxxxxx.
Wojciechowski, William A., xxxxxxxxx.
Wojcik, James F., xxxxxxxxx.
Wojnar, Peter J., Jr., xxxxxxxxx.
Wolf, Richard G., xxxxxxxxx.
Wolfe, Bruce R., xxxx
Wolfe, John G., Jr., xxxxxxxxx.
Wolk, Stuart R., xxxx
Wolovich, William A., xxxx
Wood, Douglass G., xxxxxxxxx.
Wood, George C., xxxx
Wood, Jerry D., xxxxxxxxx.
Wood, Thomas W., xxxx
Wood, Wayne L., xxxxxxxxx.
Woodcock, Larry A., xxxxxxxxx.
Woods, William J., xxxxxxxxx.
Woodson, Raymond E., xxxxxxxxx.
Woolley, Robert B., xxxxxxxxx.
Wright, Jack E., xxxxxxxxx.
Wright, Larry J., xxxxxxxxx.
Wyatt, Ralph E., xxxxxxxxx.
Wyatt, Richard H., xxxxxxxxx.
Wyman, James P., xxxxxxxxx.
Yeagle, Paul H., xxxxxxxxx.
Yoder, Frederick D., xxxxxxxxx.
Yohe, Wayne I., xxxxxxxxx.
Young, Duke A., xxxx
Young, Ernest L., III, xxxxxxxxx.
Young, James W., xxxxxxxxx.
Young, Larry N., xxxxxxxxx.
Young, Robert J., xxxxxxxxx.
Youngberg, Richard H., xxxxxxxxx.
Yungfleisch, Francis M., xxxxxxxxx.
Zack, Richard J., xxxxxxxxx.
Zahrobsky, Frank M., xxxxxxxxx.
Zalewski, Zigmund W., xxxxxxxxx.
Zamolyi, Laslo L., Jr., xxxxxxxxx.
Zehnder, Charles B., xxxx
Zehrung, David F., xxxxxxxxx.
Zeltman, Francis E., Jr., xxxxxxxxx.
Zieg, Duane H., xxxx
Ziegwied, George O., xxxx
Zine, Richard E., xxxx
Zitzow, Uwe, xxxx
Zylstra, Corliss E., xxxx

The following distinguished military graduates of the Air Force Reserve Officers' Training Corps for appointment in the Regular Air Force, in the grade indicated, under provisions of section 8284, title 10, United States Code, with dates of rank determined by the Secretary of the Air Force:

To be second lieutenants

Allan, Donald F., xxxxxxxxx
Baughman, Richard W., xxxx
Blount, Douglas R., xxxx
Branch, Robert H., Jr., xxxx
Byrne, Kenneth E., xxxxxxxxx
Carlen, Clark D., xxxxxxxxx.
Chapman, John M., xxxx
Ciplickas, Algimantas J., xxxxxxxxx
Cohen, Marshall A., xxxxxxxxx
Cowherd, William R., xxxxxxxxx
Cox, Artemus J., Jr., xxxxxxxxx
Crispe, Ronald E., xxxx
Crocker, Clyde E., Jr., xxxx
Dahlberg, Walter G., xxxxxxxxx
Darby, Donald B., xxxx
Davis, Jimmie C., xxxxxxxxx.
Dixon, Roger W., xxxx
DuBois, Robert L., xxxxxxxxx
Edwards, James W., xxxx
Flaherty, Richard J., xxxxxxxxx
Godfrey, Martin J., xxxx
Greeley, Philip J., xxxxxxxxx
Hagenau, Herbert R., xxxx
Hamilton, Jay W., xxxx
Hanson, Richard A., xxxx
Healy, Raymond G., xxxx
Higham, William T., xxxxxxxxx
Hiller, James W., xxxx
Hitchcock, Lee C., xxxxxxxxx
Holmes, Donald L., xxxx
Howo, William Y., xxxx
Jamieson, Douglas W., xxxx
Jones, Richard W., xxxxxxxxx
Kuefner, Robert E., xxxxxxxxx
Lee, Joseph A., xxxx
MacDonald, Malcolm L., xxxxxxxxx
Marshall, Anthony G., xxxx
Martin, Larry E., xxxx
McConnell, Allan D., xxxxxxxxx
McNamee, James W., II, xxxx
McQuary, Willard L., xxxx
Mitchell, Michael D., xxxxxxxxx
Mitsakos, Peter L., xxxx
Moorman, Thomas S., III, xxxx

Murphy, Thomas M., [redacted].
Nash, Thomas, [redacted].
Nugent, James M., [redacted].
Petty, Arthur P., III, [redacted].
Picciotti, Ermogene F., [redacted].
Pourciau, Richard A., [redacted].
Powell, James D., [redacted].
Price, Steven E., [redacted].
Quade, Arthur W., [redacted].
Rakowski, Douglas E., [redacted].
Rone, James W., [redacted].
Sydnor, William C., [redacted].
Templet, Joseph L., Jr., [redacted].
Thompson, Kenneth B., [redacted].
Thornbrough, Preston J., [redacted]
Wiley, Lloyd R., [redacted].
Wilkerson, Danny F., [redacted].
Wilson, Arthur J., III, [redacted].
Wilson, Richard L., [redacted].
Wright, Kenneth D., [redacted].
Wright, Lyle H., [redacted]

EXTENSIONS OF REMARKS

Results of Legislative Questionnaire

EXTENSION OF REMARKS
OF
HON. W. E. (BILL) BROCK
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Monday, March 23, 1964

Mr. BROCK. Mr. Speaker, I feel it is most important to our democratic Government that the American people have ample opportunity to fully express their views on important issues before the Congress. This is a complex and fast changing era in which we live, and it is sometimes difficult for individuals to feel a part of their Government.

By use of a legislative questionnaire I recently sought the opinion of citizens in my district on major issues. I believe effective representation in Congress depends on carefully studying pending legislation and knowing the effect such measures will have on the Nation, State, district, and individual citizen. By making their voices heard through the opinion survey, each citizen can become a participant in our governmental process.

Questionnaires were mailed to approximately 87,000 households in the Third Congressional District of Tennessee, and 15,608 answers were returned. In hopes the results of my questionnaire may be helpful to other Members of Congress, I insert the tabulations, in percentages, in the RECORD.

	Percent		
	Yes	No	Other
1. Budget: Do you believe the Federal Government must operate within a balanced budget?	90.9	6.7	2.4
2. Bible: Do you believe schoolchildren should be permitted voluntarily to say prayers or read the Holy Scriptures in class?	94.7	3.7	1.6
3. Youth Corps: Do you favor the creation of a Federal youth program such as the Domestic Peace Corps?	30.3	54.5	15.2
4. Education: Do you favor Federal aid to education (answer all 3)—			
A. For teachers' salaries?	25.0	67.0	8.0
B. For school construction?	35.4	56.7	7.9
C. Through a tax reduction for parents?	37.1	51.9	11.0
5. Civil rights: Do you favor Federal civil rights legislation (answer all 4)—			
A. To guarantee the right to vote?	80.5	15.4	4.1
B. To enforce school integration?	12.5	83.2	4.3
C. To grant equal opportunity for employment?	54.0	38.0	8.0
D. To withhold Federal money from States permitting discrimination?	11.9	81.8	6.3
6. Foreign aid: Do you favor a sharp reduction in (answer all 3)—			
A. Foreign aid to Communist nations?	86.2	10.4	3.4
B. Foreign aid to our allies?	64.2	29.5	6.3
C. All foreign aid spending?	69.3	24.5	6.2
7. Government controls: In general do you feel there are enough laws regulating (answer both)—			
A. Business?	83.3	10.1	6.6
B. Labor Unions?	36.5	56.2	7.3
8. Farm program: Do you favor an agricultural program which has (answer only 1)—			
A. Rigid controls and quotas to regulate farm economy?	6.4	------	------
B. Flexible price supports and voluntary land retirement?	27.0	------	------
C. No controls, no supports—free farm economy?	55.9	------	10.7
9. Taxes: Do you favor a Federal income tax cut this year (answer only 1)—			
A. Without a reduction in Federal spending?	11.3	------	------
B. Only if Federal spending is reduced?	82.7	------	6.0
10. Medicare: Do you favor a medical care program for the elderly through (answer only 1)—			
A. Increasing social security taxes?	17.9	------	------
B. A tax reduction to purchase private insurance?	20.8	------	------
C. Voluntary plans without Federal participation?	53.1	------	8.2

Byelorussian Independence

EXTENSION OF REMARKS
OF
HON. MILTON W. GLENN
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Monday, March 23, 1964

Mr. GLENN. Mr. Speaker, I am in sympathy toward the nations enslaved by Russian communism, and take this opportunity to pay tribute to the Byelorussian people on their independence day. On March 25, 1918, these brave people proclaimed their independence, becoming a democratic republic. Despite all sacrifices, the young Byelorussian state was unable to preserve its independence against the onslaught of Bolshevik forces. The new Byelorussian Soviet Socialist Republic created in its place and reoccupied by Soviet forces remains today dismembered, an administrative arm of the Moscow Government, not representing the hopes of the Byelorussian people.

Efforts by Moscow have failed to eradicate the national spirit of the Byelorussians, who have not renounced their desire for the restoration of democratic government, as embodied by the Republic which the Soviets overthrew in 1920.

March 25 is being celebrated by these stalwart and courageous people throughout the free world as a symbol of their national aspirations. Americans of Byelorussian descent in New Jersey, as well as Byelorussian immigrants in this country, will celebrate the 25th of March this year.

It is fitting that we pause to commemorate their struggle for liberation.

Greek Independence Day—A Salute to Americans of Hellenic Origin

EXTENSION OF REMARKS
OF
HON. HAROLD D. COOLEY
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Monday, March 23, 1964

Mr. COOLEY. Mr. Speaker, March 25 marks the 143d anniversary of Greek Independence Day. It was on this day in 1821 that Archbishop Germanos of Patras raised the flag of freedom over the monastery of Aghia Lavra and the courageous people of Greece began their struggle for independence from the Ottoman Empire.

The war raged for 7 bitter years before the heroic and greatly outnumbered Greeks won their freedom, thus ending 400 years of subjugation under Ottoman masters.

American sympathy for the Greek cause came from the eloquent words of President Monroe and Daniel Webster. The hearts of all freedom loving men were stirred by the inspired pen of the great English poet, Lord Byron, who gave his life in this struggle for freedom.

The rebirth of a free and independent Greece 143 years ago should remind us not only of the great and eternal contributions of Greece to the world and to America but also to her fierce and unwavering devotion to freedom, democracy, and the dignity of man.

The long friendship and close association of the peoples of Greece and the United States flow from their dedication to the ideas of freedom, liberty, and national independence. These bonds were further strengthened when our sons fought side by side in two world wars and in Korea to preserve these ideals.

Prostrate and bleeding from these holocausts—the flower of her manhood strewn lifeless over the world's battlefields—Greece once again displayed the courage of Thermopylae by becoming the