United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 88th CONGRESS, SECOND SESSION

SENATE

TUESDAY, APRIL 7, 1964

(Legislative day of Monday, March 30, 1964)

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island.

Cardinal Franz Koenig, of the Roman Catholic Church, Vienna, Austria, offered the following prayer:

In the words of President George Washington:

"Almighty God:

"We make our earnest prayer that Thou wilt keep the United States in Thy holy protection; that Thou wilt incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; and entertain a brotherly love and affection for one another and for their fellow citizens of the United States at large. And, finally, that Thou wilt most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the Divine Author of our blessed religion, and without a humble imitation of whose example in these things we can never hope to be a happy nation.

"Grant our supplication, we beseech Thee, through Jesus Christ our Lord. Amen."

THE JOURNAL

On request by Mr. HUMPHREY, and by unanimous consent, the reading of the Journal of the proceedings of Monday, April 6, 1964, was dispensed with.

ORDER OF BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that there may be a morning hour, with statements therein limited to 3 minutes.

Mr. MORSE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

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

[No. 118 Leg.]

Aiken	Hickenlooper	Mundt
Allott	Holland	Muskie
Anderson	Hruska	Nelson
Bartlett	Humphrey	Neuberger
Bayh	Inouye	Pastore
Bible	Jackson	Pell
Boggs	Johnston	Proxmire
Brewster	Jordan, N.C.	Ribicoff
Burdick	Jordan, Idaho	Robertson
Cannon	Keating	Saltonstall
Carlson	Kennedy	Scott
Case	Kuchel	Smith
Church	Lausche	Sparkman
Clark	Long, Mo.	Stennis
Cotton	Magnuson	Symington
Curtis	Mansfield	Talmadge
Dirksen	McGovern	Thurmond
Dominick	McIntyre	Walters
Douglas	McNamara	Williams, N.J.
Ellender	Metcalf	Williams, Del.
Gore	Miller	Yarborough
Gruening	Monroney	Young, Ohio
Hart	Morse	
Hayden	Morton	

Mr. HUMPHREY. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Louisiana [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Wyoming [Mr. MCGEE], the Senator from Utah [Mr. MOSS], the Senator from Georgia [Mr. RUSSELL], and the Senator from North Carolina [Mr. ERVIN] are absent on official business.

I also announce that the Senator from Virginia [Mr. BYRD], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Oklahoma [Mr. EDMONDSON], the Senator from California [Mr. ENGLE], the Senator from Indiana [Mr. HARTKE], the Senator from Alabama [Mr. HILL], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

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

Mr. KUCHEL. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Arizona [Mr. GOLDWATER], and the Senator from North Dakota [Mr. YOUNG] are necessarily absent.

The Senator from Maryland [Mr. BEALL] and the Senator from Vermont [Mr. PROUTY] are detained on official business.

I also announce that the Senator from Kentucky [Mr. COOPER], the Senator from Hawaii [Mr. FONG], the Senator from New York [Mr. JAVITS], the Senator from New Mexico [Mr. MECHEM], the Senator from Kansas [Mr. PEARSON], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Texas [Mr. TOWER] are detained on official business.

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

CIVIL RIGHTS ACT OF 1963

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in 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. PASTORE obtained the floor.

Mr. HUMPHREY. Mr. President, will the Senator from Rhode Island yield to me without in any way jeopardizing his rights to the floor?

Mr. PASTORE. And with the understanding that it will not be counted as a second speech; I yield.

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

RECESS OF THE SENATE FROM 2 P.M. TO 4 P.M. TOMORROW

Mr. HUMPHREY. Mr. President, I should like to make an announcement.

I ask unanimous consent that tomorrow the Senate stand in recess from 2 o'clock to 4 o'clock, in order that the Senate may pay its respects to the late General MacArthur, and also in order that the members of the Armed Services Committee and the Senate leadership may participate in the ceremonies.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. HUMPHREY. I also 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.

PROCEDURE IN QUORUM CALLS

Mr. HUMPHREY. Mr. President, I would like the Senate to know that a quorum was available in 9 minutes today. In order to make sure Senators had an opportunity to be listed on the quorum call——

Mr. STENNIS. Mr. President, will the Senator speak louder?

Mr. HUMPHREY. I said that a quorum was available in 9 minutes today, but in order to make it possible for Senators to be listed on the quorum call—which is most desirable—we have informally worked out with the clerks that the call for the quorum, including the call of the absentees, if necessary, will not be completed in less than 20 minutes. Thus, with this foreknowledge, each Senator will be assured that his name will be recorded on the quorum call if he is in the Chamber and indicates his presence to the Chair within 20 minutes of the original call. The procedure has been in the past that when there has been a call for a quorum and a call for the absentees and, upon the completion of the latter call, a quorum is not present, the leader or the acting leader will then move that the Sergeant at Arms be directed to notify absent Senators that their presence is required. When 51 Senators have answered under those instructions, the quorum call is over.

It is because of this situation, which has caused some difficulty and misunderstanding, that we have attempted to extend the time of the calling of a quorum, particularly on the second call of the list. I wanted our colleagues to know that, so they could be on notice.

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

Mr. HUMPHREY. Yes, if the Senator from Rhode Island will permit it.

Mr. PASTORE. I yield under the same understanding.

Mr. SYMINGTON. Suppose a quorum is called at 10 o'clock, a Senator has gone home for dinner, and nobody is in his office. Will it be 20 minutes from the time the Senator is notified that a quorum is first being called, or will it be 20 minutes regardless of when the Senator is notified?

Mr. HUMPHREY. In response to the Senator from Missouri, last evening the distinguished Senator from Missouri came into the Chamber just after the quorum of 51 Senators had responded to the quorum call. His office was not promptly notified. For this we express regret and apologize.

Mr. SYMINGTON. I appreciate that statement.

Mr. HUMPHREY. I want the RECORD to show that on several occasions a number of Senators have come into the Chamber after a quorum has been announced. I would hope that the names of those Senators could be listed as having come onto the floor after the quorum was announced. I shall ask that this be done, to the best of our ability, as we observe Senators coming into the Chamber. There will be a limit of 20 minutes from the ringing of the first bell to the end of the second reading of the list of Senators. If 51 Senators are not present at that moment we then request the Sergeant at Arms to request the presence of absent Senators. At the point when the 51st Senator enters the Chamber, the quorum call is over.

It has been suggested that in order to bring Senators to the Chamber there should be live quorums. In the past there have been quorum calls only to notify Senators of a change of speakers. This has been an accommodation to Senators. It might well be that on the first call for the quorum there would be the ringing of three bells to notify Senators that they are to be expected for a live quorum. We shall try, to the best of our ability, to keep Senators notified. Their offices are pretty busy.

I do not make any such request at this time. I only make the suggestion now. We shall discuss this suggestion with the leadership on both sides in order to attempt to give better notice to our colleagues.

I do not want to be in the position of embarrassing any Senator who is on duty—and Senators are on duty when they are here—because he is not listed on quorum calls. I ask the indulgence of my colleagues to see if the situation can be improved so that no Senator will be offended.

Yesterday the Senator from Nevada [Mr. CANNON] came through the door immediately after 51 colleagues had answered to their names. Rightly, he was disturbed. This situation has bothered other Senators.

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

Mr. PASTORE. Mr. President, with the understanding that my rights will be preserved, I shall yield on several occasions this morning, without its being charged as a second speech, and with the understanding that I retain all my rights to the floor.

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

Mr. MORSE. Mr. President, I believe the last suggestion of the Senator from Minnesota is an excellent one. I think it is fair, when a Senator is notified that there is to be a quorum call, that it be a live quorum call, and that three bells be rung. I know the situation has caused some irritation. When we expect a quorum, it should go through, and the quorum call should not be withdrawn. It is not fair to a Senator who puts himself out to reach the Chamber to have it withdrawn. When a live quorum is started, let it be completed.

Mr. HUMPHREY. It will be done.

Mr. President, I yield to the Senator from Missouri, with the same understanding.

Mr. SYMINGTON. Mr. President, I was not complaining. I ask again the assistant majority leader the question, in the reference of what the able Senator from Oregon just said.

If there is no one in an office at 10 o'clock, if some Senators have gone home to their families at 10 o'clock, will Senators be allowed enough time, say a maximum of 20 minutes, to answer the quorum call?

Mr. HUMPHREY. The Senator may rest assured that that will be done. How, I am not quite sure; but it will be done. I shall cause no more embarrassment to Senators, under those circumstances.

Mr. SYMINGTON. I thank the able Senator.

Mr. MILLER. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. MILLER. Do I correctly understand the Senator to say something about revising the RECORD with respect to the quorum call of last evening?

Mr. HUMPHREY. No, I stated that I noted the Senator from Missouri [Mr. SYMINGTON] came into the Chamber, and that he was rightly concerned after he came in, because the list of 51 Senators had just been completed and his name, therefore, was not on the list. If that happens to a Senator in the future, it is my suggestion that he ask the Senator who has the floor to yield, so that he may notify the Chair that he is present.

It was because of circumstances beyond the Senator's control that he could not reach the Chamber sooner. For example, if a Senator happened to be at home having dinner with his family, knowing that there would not be a quorum call for a couple of hours, it might be difficult for him to return in the period of time required for the listing of 51 Senators. Under those circumstances, I would suggest that the Senator ask the speaker who has the floor to yield to him so that he may make a note of his presence in the Chamber and give what explanation he may wish to make.

Mr. MILLER. I appreciate the Senator's suggestion. Yesterday the Senator from Nevada [Mr. CANNON] was followed, I believe, immediately by the junior Senator from Iowa [Mr. MILLER], the junior Senator from South Dakota [Mr. MCGOVERN], the Senator from Alabama, and two or three other Senators.

Mr. HUMPHREY. The Senator is correct.

Mr. MILLER. I do not believe any Senators were advised to try to make the RECORD clear at that point. If there is to be any revision of the RECORD of yesterday, the quorum calls for both morning and evening should be handled in that way.

Mr. HUMPHREY. I shall try, to the best of my ability, to cooperate in this matter, so that Senators may ask the speaker who has the floor to yield, if only for the purpose of identifying themselves and announcing their presence in the Chamber.

Mr. DIRKSEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield to the Senator from Illinois.

Mr. DIRKSEN. In this connection, I believe that a parliamentary inquiry should be addressed to the Chair.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. I know of nothing in the rules that provides for a 20-minute hiatus for the calling of the roll. I have no objection, under extraordinary circumstances, but I wish to be sure that this will not establish a precedent for future days. I therefore believe we should have a word from the Chair with respect to the 20-minute proposal.

The PRESIDING OFFICER. There is nothing in the rules which provides

for a limit on the time required for a quorum call.

Mr. DIRKSEN. So this is a temporary makeshift, in order to meet the situation which confronts us?

Mr. HUMPHREY. I fully understood that in the beginning. I have also understood, as the best example of the genial and persuasive manner of the minority leader, that the best way to get along is to try to be considerate; that is what I have always tried to do, under the circumstances.

Mr. DIRKSEN. I appreciate that. I know the difficulties which have been encountered in connection with live quorums; but it should be made clear that in any case this suggestion does not constitute a modification of the rule.

Mr. HUMPHREY. The Senator is absolutely correct.

Mr. DIRKSEN. A second question: The present rule provides that the bells should be rung in a certain order, so that if three bells are rung instead of two, that still constitutes a diversion from the rule.

Mr. HUMPHREY. I am not asking for that, at this time. I am merely suggesting it as a possibility. I stated that I wished to consult with the majority and minority leaders.

Mr. AIKEN. Mr. President, will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield to the Senator from Vermont.

Mr. AIKEN. Do I assume correctly that the acting majority leader has no way of knowing when a live quorum will be called?

Mr. HUMPHREY. I can only state that thus far there has been full communication and fine cooperation and understanding between those of us who are supporters of the bill and the opponents of the measure. Therefore, there has been more or less a working understanding about live quorums. I cannot say that this situation will always prevail.

Mr. AIKEN. There is no way of assuring that live quorums will not be called between 5:30 and 8:30 at night.

Mr. HUMPHREY. There is no positive way, but I can state that each Senator in the Chamber has always acted in a most considerate manner; therefore we have not been caught off balance, so to speak.

Mr. AIKEN. In view of the fact that there is no assurance on this point, I was wondering whether it might be well for Senators to cancel their evening dinner engagements until the bill which is now before the Senate is disposed of.

Mr. HUMPHREY. Indeed it would be, unless there can be some announcement made at the time that there has been an understanding reached as to——

Mr. AIKEN. It is hardly fair to people who invite Senators to dinner, if guests have to call them up at 10 minutes to 6 to say that unfortunately they cannot be with them at 6 o'clock. It will mean a vacant chair, which the host will have to fill the best way he can. The acting majority leader has no way of assuring Senators that they would not be called upon to cancel dinner engagements at the last minute.

Mr. HUMPHREY. Thus far, we have been able to give such assurance. A good deal of time is spent in the Chamber trying to pin down that assurance. We shall continue to give such assurance. We must live together, as I have learned through the years. Unless we do, we are not likely to live very well.

Mr. AIKEN. Does the Senator feel that it would be safe for Senators who have accepted invitations to the Walter Reuther testimonial dinner tonight to plan to keep that engagement?

Mr. HUMPHREY. I should say that Senators could plan on keeping that engagement, but they would need to keep themselves "limber" in case they must return suddenly.

Mr. SCOTT. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield to the Senator from Pennsylvania, provided, in doing so, I do not lose my right to the floor.

ACTIVITIES OF COMMITTEE ON RULES AND ADMINISTRATION

Mr. SCOTT. Mr. President, perhaps this is not the best time to find out whether there will be a meeting of the Rules Committee at any time soon, and whether the minority will have an opportunity to attend. I am now reading various newspaper reports of what the Rules Committee is doing with regard to a code of ethics. In a letter written by the ranking minority member, the Senator from Nebraska [Mr. CURTIS], the Senator requested that the minority members be given an opportunity to be present from the beginning of the drafting of any report, and an opportunity to be consulted and to offer suggestions.

We are now reading in the press of specific recommendations to be made by the committee, although the committee has not met, and some Senators have not been consulted and not invited to attend the sessions if any have been held. Therefore, I do not believe the report should be written between the majority and the press, excluding the minority members, and I would like reassurance on this.

I wonder whether the Senator from North Carolina would advise us, first of all, whether the Rules Committee is planning to meet; second, has a code of ethics been drafted, as reported in the press? Third, why have not the minority members been notified?

Mr. JORDAN of North Carolina. Mr. President, if the Senator from Rhode Island will yield to me to reply to the Senator from Pennsylvania——

Mr. PASTORE. Mr. President, I yield to the Senator from North Carolina, provided that in doing so I do not lose my right to the floor.

Mr. JORDAN of North Carolina. Will the Senator from Nebraska [Mr. CURTIS] state again what he wrote?

Mr. CURTIS. Mr. President, will the Senator from Rhode Island yield to me for that purpose?

Mr. PASTORE. I yield, with the same understanding.

Mr. CURTIS. I should like to make it clear that my letter was answered by counsel, stating that the distinguished chairman was out of the city. I believe what has precipitated this question is that I received a call last night from the press, wishing to know what I thought about various recommendations, including the code of ethics for Senators as a part of the report on the Baker investigation.

I had to tell him I did not know anything about it. I was not in the Chamber when the present colloquy started, so I cannot answer the question of the distinguished chairman.

Mr. JORDAN of North Carolina. Mr. President, if I may make the brief statement, there is one letter on my desk. I have been out of the city.

Mr. CURTIS. I understand.

Mr. JORDAN of North Carolina. There was a letter on my desk from the Senator pertaining to several witnesses that he would like to have called.

Mr. CURTIS. I am referring to the suggestion of the minority. I am not attributing any wrongful motive. We merely stated that before the staff or anyone else undertakes to draft a report, the committee should have a meeting as to the content of the report, so that we would all be informed, because some of us may have some suggestions to make.

Mr. JORDAN of North Carolina. I may say to the distinguished Senator from Pennsylvania that no meeting has been held. All that was printed in the newspaper was as much news to me as it was to the Senator or anyone else. I have no idea where it came from. The majority has not been drafting any rules that I know of. The Senator's answer is as good as mine. I assure him that he will be notified when a meeting is called. No off-the-record meeting of the majority has been planned; nor has any such meeting been held. If it has been, I was not aware of it.

Mr. CURTIS. I am sure that is the situation. I thank the distinguished chairman.

Mr. SCOTT. I wish to join in what has been said about the distinguished chairman of the Rules Committee, because the press are quoting our counsel quite freely as to what is going on. I hope counsel will withhold any comments pertaining to the future work of the committee, because what appeared in the newspapers was rather specific. I very much appreciate the Senator's courtesy and statement that there will be no meeting without the minority being present. I again express the hope that we may discuss what is to go into the report, without having to read about it in the newspapers. It is the members of the Rules Committee who must determine what is to go into a code of ethics. I saw some very good things in the newspapers, but I was at a disadvantage, because we had never discussed the subject.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. PASTORE. If anyone yields, I will yield. I have the floor. I did not think the Senate would get into something like this. It is most unfair to the Senator who has the floor at this time. If this discussion can be shortened, I shall appreciate it very much. Senators are being repetitive. No reports have been printed and no meeting has been called. I do not see why Senators have

to talk about this subject for a day and a half.

Mr. JORDAN of North Carolina. Will the Senator yield for one more brief statement?

Mr. PASTORE. Yes.

Mr. JORDAN of North Carolina. I wish to say to the distinguished Senator from Pennsylvania that counsel called me this morning. He said he had no knowledge of where the information in the press came from. He had had no interview with the press. It was complete news to him. I assure the Senator that the chief counsel has not drafted any rules or made any recommendations. We all know that many recommendations have been made. They have not been assembled or discussed at any meeting.

Mr. SCOTT. I thank the Senator from North Carolina, and I thank the Senator from Rhode Island for yielding not quite a day and a half.

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

EXECUTIVE SESSION

Mr. HUMPHREY. Mr. President, I move that the Senate go into executive session to consider nominations that have been cleared. We have discussed them with the minority leader. The Senator from Alabama [Mr. SPARKMAN] will present them.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Rutherford M. Poats, of Virginia, to be Assistant Administrator for the Far East, Agency for International Development;

Henry L. T. Koren, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of the Congo;

Jack Hood Vaughn, of Virginia, to be Ambassador Extraordinary and Plenipotentiary to Panama; and

Mrs. Katharine Elkus White, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary to Denmark.

The PRESIDING OFFICER. If there be no further reports of nominations, the clerk will state the nominations just reported.

DEPARTMENT OF STATE

The Chief Clerk read the nomination of Mrs. Katharine Elkus White to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Henry L. T. Koren, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Jack Hood Vaughn to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The Chief Clerk read the nomination of Rutherford M. Poats to be Assistant Administrator for the Far East, Agency for International Development.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Without objection, the President will be notified forthwith of the nominations confirmed today.

U.S. FOREIGN AID IN LAOS

Mr. SPARKMAN. Mr. President, one of the difficulties of evaluating the foreign aid program is the problem of finding out what foreign aid really accomplishes. This is especially true in a country like Laos, where our foreign aid program has to be conducted under such great handicaps.

A very interesting story on our foreign aid program in Laos has appeared in the Washington Star, and it provides a good insight into the improvements in our program in that important country, as well as what we are now accomplishing in helping Laos to maintain its independence.

Operating under extraordinary difficult circumstances, our foreign aid program in Laos is doing a good job of which we can be proud. As the article points out, Laos used to be an example of the mistakes of foreign aid. With the careful management now being given to the program in Laos, as well as the aid program all over the world, Laos is now a shining example of what foreign aid can do under proper safeguards.

I ask unanimous consent to include the article at this point in the RECORD.

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

FAR EAST REPORT—U.S. AID BRIGHT SPOT IN LAOTIAN SITUATION

(By Delia and Ferdinand Kuhn)

VIENTIANE, LAOS.—Sometimes Americans at home must steel themselves for the shock of hearing good news from a far-off trouble spot. In this beleaguered country, the posture of American aid is now upright and proud.

The contrast between the morale of the aid staff here in Laos and that of the mother agency in Washington is as startling as the contrast between the Winged Victory and the Laocoon. This is not to suggest that the Lao branch is an armless or a headless figure, but rather than it has verve and style and seems to know where it is going.

Having watched a good many aid programs in Asia, often with dismay, we can suggest two or three reasons for the quality of this one. Under the leadership of a new Ambassador, Leonard Unger, and a new aid director, Charles A. Mann, a fresh start was made about 18 months ago.

Everyone from the Ambassador down is conscious of the stigmas attached to the old program, the exposures of almost unbelievable mistakes. Nobody is going to let even the smallest grain of dirt settle on the new program if he can held it. Every project is kept out in the light and scrubbed daily.

CLOSE CHECK ON GOODS

As one of the new safeguards, four American customs inspectors are stationed here to check every item that enters the country under the American-financed commodity program. Every refugee from the Pathet Lao guerrillas who gets an American blanket, for example, must sign a receipt, even if he cannot write. In the files of the aid mission here are stacks of thumbprinted receipts, ready for the General Accounting Offices to inspect and ponder.

A second source of pride and high morale here can be traced to the nature of the challenge in Laos. After the American military advisers departed in October 1962 under the terms of the Geneva agreement, the aid mission and the U.S. Information Service had the field to themselves. Today about 80 technicians, more than half the aid mission's technical staff, live and work outside the capital. Of these about 30 are young men and women of International Voluntary Services, a private agency under contract.

To say that the fieldworkers lead precarious lives is to understate. Guerrillas, bandits, and thieves rove the countryside. On the roads you may be ambushed; in the air you may be hit by bullets or flak.

The aid mission maintains its own plane and helicopter service, and its own radiotelephone system. Everyone based outside Vientiane must call headquarters daily, or, if atmospheric conditions prevent, must report through another contact in the field. If nobody hears from him, a plane flies off to check his whereabouts. So far the safety record has been good.

MANY ACCOMPLISHMENTS

So also has the record of accomplishment. The main effort outside the capital has been in rural development. As part of it, American skills and materials are helping Laotians to build roads and bridges, waterworks and schools. One American remarks that the Pathet Lao have not interfered much with the building of roads, probably because they expect to use them someday.

Pathet Lao tolerance does not, however, stretch to the refugee relief work. Of the multitudes who have fled the Communist-led guerrillas in the past few years, no fewer than 170,000 have received some kind of help under this program. Many organizations from many countries cooperate with the Lao Ministry of Social Welfare to feed, clothe, and resettle them. The American aid mission shoulders the largest part of the burden.

Of all the Americans scattered around this country, perhaps the two who lead the most isolated and exposed lives are a middle-aged farmer from North Fort Wayne, Ind., and a young graduate in community development at Berkeley, Calif. "Pop" Buell and Tom Ward work with refugees of the renowned Meo mountain tribe in the province of Samneua on the North Vietnam border.

FIGHT WITH OLD MUSKETS

The Meo account for about half the refugees in Laos. They not only flee the Pathet Lao; they fight them with old hunting muskets. Samneua is a Pathet Lao stronghold. So when American-donated rice and blankets and seeds are airdropped to the Meo in that province, Communist propaganda screams that American bandits are putting the Meo in fighting condition.

The Pathet Lao would dearly like to capture the two American aid officials in the mountains of northern Laos. More than once Mr. Buell has been roused in the middle of the night and warned that Communists

were near. Each time the Meo led him to safety in another village.

As a show window of Asian neutralism, Laos may be what one European here called "a mess, a tolerable mess." But as a show window of American aid at its best, Laos is worth a respectful look.

ESTABLISHMENT OF SAVINGS AND LOAN ASSOCIATIONS IN LATIN AMERICAN COUNTRIES THROUGH THE ALLIANCE FOR PROGRESS

Mr. SPARKMAN. Mr. President, one of the most successful activities of our Government in assisting the Latin American countries through the Alliance for Progress is a program to help establish savings and loan associations in those countries.

Through the use of seed capital loans and technical assistance, our Government has been successful in sponsoring new savings and loan systems in five Latin American countries. The Agency for International Development, which is responsible for administering this program, has been assisted in this endeavor by the National League of Insured Savings Associations. Members of the league have freely given their own time in advising the Agency and in direct consultation with interested foreign officials in helping to get the program established.

Since the start of the program about 3 years ago, remarkable progress has been made. There are now 68 savings and loan associations with savings of $34 million by 105,000 savers. This accumulation of savings, combined with seed capital from the United States and other sources, has enabled these associations to make mortgage loans for the construction of 14,000 new owner-occupied homes amounting to over $47 million.

Savings are flowing into the associations at the rate of $2½ million per month from ordinary working-class families. These people are generally of modest income but are ready to make great sacrifices to buy a home of their own.

This is a remarkable record and one in which we can take great pride and recognize it as one of the outstanding accomplishments of our foreign aid program. It illustrates what great economic and social progress can be made in the developing countries by a small outlay of financial assistance from the United States when accompanied by highly skilled and dedicated professional assistance.

I ask unanimous consent to place in the RECORD a table prepared by Mr. Kenneth G. Heisler, executive director, National League of Insured Savings Associations, showing the progress made in the last 6 months of 1963 by the savings and loan associations in the Latin American countries.

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

Progress report of savings and loan associations in Latin American countries—Analysis of 6-month period, June 30–Dec. 31, 1963

	Chile	Dominican Republic	Ecuador	Peru	Venezuela	Total	6-month increase
Number of associations:							
(A) June 30, 1963	22	3	8	13	3	49	19
(B) Dec. 31, 1963	22	7	10	14	15	68	
Number of savers:							
(A) June 30, 1963	48,103	4,816	5,560	15,218	1,432	75,130	30,148
(B) Dec. 31, 1963	63,013	6,178	7,552	23,683	4,852	105,278	
Percent change (B) over (A)	30	28	35	55	238	40	
Volume of savings (in thousands):							
(A) June 30, 1963	Esc44,391	RD$1,224	S/13,359	S/105,722	Bs5,050	US$21,232	$15,118,000
(B) Dec. 31, 1963	Esc71,130	RD$1,741	S/18,928	S/164,663	Bs20,983	US$36,350	
Percent change (B) over (A)	60	42	42	56	315	71	
Mortgages recorded (in thousands):							
(A) June 30, 1963	Esc41,443	RD$1,485	S/11,304	S/147,544	[1] Bs8,900	US$22,838	$24,638,000
(B) Dec. 31, 1963	Esc80,808	RD$2,594	S/56,460	S/235,050	[1] Bs32,011	US$47,476	
Percent change (B) over (A)	94	70	398	59	259	108	
Number of homes financed:							
(A) June 30, 1963	5,576	266	179	1,756	91	7,868	6,313
(B) Dec. 31, 1963	9,648	479	795	2,910	349	14,181	
Percent change (B) over (A)	73	80	344	65	283	80	

[1] Approximate.
Rates of exchange: Esc3.12=US$1; RD$1=US$1; S/18=US$1; S/27=US$1; Bs4.50=US$1.
Prepared by National League of Insured Savings Associations.

GEN. DOUGLAS MacARTHUR

Mr. DIRKSEN. Mr. President, yesterday, while the Senate was paying its tributes to General MacArthur, I was in Illinois attending the funeral of the late secretary of state of the State of Illinois.

I had no opportunity to participate in the eulogies. The distinguished Senator from Rhode Island [Mr. PASTORE] has been kind and forbearing to permit me to place in the RECORD a statement with respect to this great hero, this great American statesman, this great leader.

I often think of a line that appears in the Letter to the Hebrews, because it indicates that Abel, having made sacrifices to gain righteousness, is spoken of by Paul as "being dead, yet speaketh."

MacArthur may have died, he may have faded away, contrary to the estimate of the old saying, but his memory will be incandescent in the annals of the country, and that memory will not fade.

I believe, if we interpret literally what comes on the sacred parchment of time, we wonder what he would speak about.

I believe he would speak about national discipline as the only road to national unity and to the fulfillment of American destiny. I believe he would speak of law and order; particularly of the disagreeable tasks he had to perform.

He never quailed in his duty and responsibility. In a time of demonstrations and sit-ins there needs to be more emphasis on law and order.

I believe he would speak of fidelity. One sometimes wonders whether fidelity to the American tradition and to the greatness of the country as an attribute of the attitude of our forebears has not been running just a little thin.

If the memory of MacArthur could speak, I believe it would speak of firmness, at a time when our flag is hauled down in many parts of the earth and disgraced, and when American officialdom, with a pygmy's gun in the back, is marched away from the post of duty.

I believe, as a great soldier and as a great leader, he would speak of firmness and stamina for our country. I think also he would speak of the need, now and then, for a little righteous anger.

I become frightfully impatient with people who sometimes for a venal dollar would destroy some of our heroes. I am thinking now of the recent book, "The Passion of the Hawks," which is anything but a credit to the Military Establishment of the country, and certainly not to the leaders. As I recall, the author devotes 17 or 18 pages to this great fallen hero under the title, "King Mac." What a travesty it is upon truth. What a travesty it is upon good grace, courtesy, and good manners that a man has to be hauled down just before the moving icy finger has touched him.

It occurs to me there could be some righteous anger and indignation in this country to roll back those estimates of men like MacArthur who bulk so large in the contemporary tradition and who are virtually enshrined in the pulsating hearts of the American people.

As was said in that ancient letter, "Being dead, yet speaketh," if MacArthur could speak, I think he would speak of these things.

So we hallow the memory of one who had only one great criterion that marked his life: That was fidelity to his country no matter where the path might lead.

I thank the Senator from Rhode Island for yielding.

Mr. MILLER. Mr. President, will the Senator from Rhode Island yield further?

Mr. PASTORE. I yield.

CIVIL RIGHTS RIFLE CLUBS

Mr. MILLER. Mr. President, yesterday the distinguished senior Senator from Ohio [Mr. LAUSCHE] called the attention of the Senate to a serious situation which has developed in his hometown of Cleveland, Ohio. I refer to his

remarks on pages 7001 and 7002 of the RECORD.

The Senator pointed out that rifle clubs had been formed in Cleveland, Ohio, in connection with the civil rights issue. The Senator mentioned a newspaper account to the effect that one Mr. Lewis G. Robinson was apparently spearheading the formation of such rifle clubs, which, according to Robinson, will train the members in army fashion. They will wear army fatigues, helmet liners, and heavy boots. All members will be required to purchase rifles. The ostensible reason for the formation of the clubs was for the purpose of self-defense.

The Senator from Ohio has performed a service in calling attention to the danger which the formation of such clubs entails. I would hope that the Department of Justice would look into the matter, first, from the standpoint of whether or not the wearing of army fatigues might constitute a violation of the law with respect to illegal wearing of military uniforms; and second, with respect to whether or not the formation of such clubs constitutes the formation of a subversive organization or subversive organizations.

Granted that the ostensible purpose of self-defense may be laudatory, I do not think anyone should be fooled about the label that is hung on an organization, if indeed it is subversive.

I commend the Senator from Ohio for his action, and for having the courage to speak out on the subject.

I believe every Member of the Senate would share his concern if there were to be a similar development in his home State.

I thank the Senator from Rhode Island for yielding.

Mr. PASTORE. Mr. President, I yield to the Senator from Minnesota.

RETAIL PRICE MAINTENANCE IN BRITAIN

Mr. HUMPHREY. Mr. President, recently, the British restrictive sales practices court upheld as being "in the public interest" the resale price maintenance arrangements used by the book trade in England. I have carefully read the decision and believe it contains much of significance in the current campaign for enactment of the quality stabilization bill. Particularly helpful in this regard is the British court's review of the social and economic considerations justifying resale price maintenance.

Unfortunately, the extraordinary length of the British court's opinion makes unfeasible its insertion in the CONGRESSIONAL RECORD. However, a staff member has prepared a digest of the decision more suitable for insertion in the RECORD.

In this way, all Members of Congress, as well as others interested in the merits of quality stabilization, may be apprised of the essence of British judicial thought on comparable legislation.

Mr. President, I ask unanimous consent that the specially prepared digest of the decision of the British trade practices court be printed at this point in the RECORD.

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

DIGEST OF THE JUDGMENT OF THE BRITISH RESTRICTIVE TRADE PRACTICES COURT RE NET BOOK AGREEMENT, 1957 (3 ALL ENGLAND LAW REPORTS 751 (1962))

In this case the court has to determine whether an agreement made in the year 1957, and known as the net book agreement, is or is not to be deemed contrary to the public interest for the purposes of the restrictive trade practices act. The agreement is one to which all the members of the publishers' association are parties; by it each of them agrees to adopt certain standard conditions for all books published by him as what are defined in the agreement as "net books." This term means, for the purposes of the agreement, a book published at a price fixed by the publisher below which, subject to certain exceptions, it may not be sold to the public.

Publishers are in competition with one another in all aspects of their business. They are in competition to secure the works of those authors whose books are likely to attract purchasers. They are in competition to build up and maintain profitable back lists. They are in competition to produce those books which they publish in attractive forms and at attractive prices. They are in competition to bring their products to the notice of booksellers and the public. They are in competition to secure as many advantageous retail outlets for their products as possible. They are in competition to induce retailers to stock and display their products and to push the sale of those products. They are in competition to keep down their own costs, to increase their turnover, and to carry on their business as profitably as they can.

The existence of stockholding bookshops holding a widely varied and well selected stock of books is, we think, undoubtedly a powerful influence promoting the sale of books. It is self-evident, and emphasized by witnesses whom we heard, that a book which is stocked (and more particularly if it is displayed) by the local bookseller is much more likely to sell readily than one which is not. Moreover, books as has been said, sell books. The man who goes to a bookshop to buy one book will often buy more, either on impulse or because the bookseller is able to introduce him to other books on the subject in which he is interested. The very existence of a well-stocked bookshop is an attraction to customers, and a stimulus to sales of books.

On account of the great multiplicity of titles, every first-rate bookseller must provide an efficient special order service of a kind to which it is very difficult, perhaps impossible, to find a parallel in any other trade. The operation of such a service demands a considerable degree of skill and technical knowledge on the part of those employed in the bookshop. Such services are impossible to cost, and their availability is undoubtedly of great value to the public. We accept that as a matter of business commonsense it is not practicable to charge for any of these services; the cost of them must be regarded as part of the bookseller's overhead expenses. Analogous services are provided in other retail trades free of charge, but in none probably are they as prominent, as important, and as exacting as in a bookseller's business.

Evidence which we have heard about conditions in Canada, where there is no retail price maintenance in respect of books, suggests the kind of thing that would be likely to occur here if retail price maintenance ceased. From time to time, at irregular and unpredictable intervals, one or another of the department stores in Montreal, having a book department but not such as to rank as stock-holding booksellers, would sell below list prices. The books affected would probably be either a standard series, such for example as Everyman's Library, or one or more current bestsellers. Occasionally this process would eventually result in books being offered for sale below the price paid by the bookseller. Such price cutting was a device to attract customers to the store. Books so dealt with were not surplus stocks, and the object of the operation was not to obtain an increased profit by higher sales resulting from the reduction in price.

The combined effect of price-cutting competition, and the loss or reduction of library business, would be that many stockholding booksellers would be driven out of business, and those so affected would not, by any means, necessarily be businesses that are inefficiently managed. Those who survived would hold less extensive and varied stock. Booksellers would inevitably press for larger discount margins from publishers to cover their increased costs, and to allow them more room for maneuver in price competition.

Publishers would find themselves compelled to offer increased discounts, and list prices of books would rise accordingly. Moreover, the reduction in the number of stockholding bookshops, and the contraction of the stocks of those which survived would, we think, result in a marked reduction in the number of subscription and stock orders received by publishers, even when allowance is made for increased orders from library suppliers resulting from their obtaining an increased share of library business. This would tend to produce a more cautious policy on the part of the publishers, resulting in smaller printing orders, which would, for reasons already explained, tend to increase list prices further.

The increase in list prices would exceed the amount required to cover merely the increase in booksellers' discounts because of the increased cost of production per copy resulting from shorter printing runs, and because of the increase in authors' royalties resulting from increased list prices. Royalty rates could not be easily adjusted because of the very large number of current contracts.

The general contraction of the market for books in this country which would, we think, result from the reduction in the number of stockholding booksellers and the general rise in the prices of books, would have a marked influence on publishers not only when determining the size of their printing orders but when deciding whether or not to publish marginal works. Self-interest would induce caution; it would, in our view, be unreasonable to suppose that in the new conditions, publishers would be willing to publish as many books as they do now.

Counsel for the registrar has impressed upon us, by reference to various articles and reports of speeches contained in the documents submitted to the court, that there are at present too many books published, although he could not induce any of the publisher witnesses to accept this view. Prolificacy has been recognized as an ineradicable characteristic of writers at least since the day of the author of ecclesiastes, and no doubt for much longer. The world might not be a worse place if some books went unpublished, but this court is not a censor of literary taste.

It seems to us certain that if the net book agreement ceased to operate, fewer books would be published, probably significantly fewer. The question we have to answer is: Would the reduction in the number of new books be of such a character as to deprive the relevant public of specific and substantial advantages? There might be a fall in the number of titles classified by commercial libraries as light romance; there might also be a drop in the issue of romances which are not light in any sense of the word; but inevitably, we think, the effects would be most severe in the higher reaches of literature.

The new author with something important to say, the scholar with new knowledge to communicate, the poet or the artist seeking to bring more beauty into the world, the philosopher desiring to increase understanding and illumine the minds of those who will read what he writes; these, we think, are the writers who would find it harder to get their work accepted for publication.

In the more hazardous conditions that the termination of the agreement would create, many of them might not find publishers at all. We cannot doubt that this would deny to the reading public specific and substantial benefits. It is improbable that there are many "mute inglorious Miltons" about nowadays, but there may be a few, and the likelihood of their muteness would be increased, if publishers were constrained to be less adventurous.

The consequences, which we think would flow from condemnation of the net book agreement, can be summarily stated as (1) fewer and less well equipped stockholding bookshops; (2) more expensive books; (3) fewer published titles.

PRESIDENT JOHNSON'S ECONOMIC PHILOSOPHY SPURS BUSINESS CONFIDENCE

Mr. HUMPHREY. Mr. President, last week the well-known and respected business columnist of the Washington Post, Harold B. Dorsey, wrote of the importance of President Johnson's economic philosophy in the administration's drive to insure continued economic prosperity and growth in this country. The determined efforts of the President in this area, particularly his efforts to avoid a costly wage-price spiral, were especially singled out by Dr. Dorsey for praise and commendation. The President has appealed to both management and labor to hold the line on inflation and thereby protect the international position of the dollar, improve the balance of payments, and stimulate both investment and consumer spending. I quote the concluding sentence in Mr. Dorsey's analysis:

As the image of the economic philosophy of the Johnson administration has been shaping up recently, investment managers and business executives are likely to gain more confidence in the outlook for business activity, employment, and earnings.

Mr. President, I ask unanimous consent that Mr. Dorsey's column published in the Washington Post of March 30, 1964, be printed at this point in the RECORD.

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

L.B.J. STAND SPURS CONFIDENCE

(By Harold B. Dorsey)

The reason why this column has been following so persistently the manifestations of the economic philosophy of the Johnson administration is the fact that this matter is highly significant in the calculations of business executives and investment managers, both here and abroad.

This single element may well determine whether spending decisions will be adversely affected by antibusiness attitude, whether credit policies are going to be dictated by the White House or by the real authorities on this subject at the Federal Reserve, whether we are going to have an inflationary boom-and-bust sequence or whether the economy is going to enjoy a sound, satisfactory, and sustainable growth trend.

The most recent available evidence on the subject may be seen in speeches given last Monday by President Johnson to the United Automobile Workers and by Dr. Walter Heller to the Economic Club of Detroit.

Both of these speeches emphasized that a sustainable growth trend and an improvement in the internationable balance-of-payments deficit depends very heavily on the avoidance of another inflationary wage-price spiral. The President said: "The international position of the dollar * * * demands that our prices and cost do not rise. We must not choke off our needed and speeded economic expansion by revival of the wage-price spiral."

It would be very difficult for even the most extreme partisan to quarrel with that premise. Whether higher prices are caused by avariciousness of business or by excessive demands of labor, the simple fact remains that inflationary price behavior would have an adverse effect on the demand for our goods and services in domestic and world markets. It is merely a corollary that this would reduce the demand for workers.

Let us grant then that this premise must be widely accepted. Nevertheless, there has been considerable worry that the administration might have an antibusiness and prolabor bias, with an arbitrary, mailed-fist attitude toward prices and nothing more than meaningless finger-wagging attitudes toward labor demands.

President Johnson told the Auto Workers that it is the responsibility of labor, as well as management, to prevent the development of a wage-price spiral. There was no hint in his speech to the Auto Workers, or in that of Heller to the business executives, that the responsibility of one side is heavier than that of the other.

The President pointed out: "The administration has not undertaken, and will not undertake, to fix prices and wages in this economy. We are neither able nor willing to substitute our judgments for the judgments of those who sit at the local bargaining tables across the country. We cannot fix a single pattern for every plant and every industry."

This appears to be a sensible retreat from the crackdown image of the administration that was worrying business leaders a month ago. At the same time the administration certainly did not deem it necessary to swing a left jab at labor while it was withholding a right uppercut to business.

This particular point can be significant. For many years it has been an accepted political practice to pit class against class and one economic group against another. The fact of the matter is that the country has been in great need of a leader who will encourage the various sectors of the economy to work together rather than at cross-purposes. We have an intricate economic machine. It functions to the best interests of everybody—including the driver—if all of the component cogs mesh together smoothly. If one cog is smacked with a hammer it might crack and weaken the progress and efficiency of the entire mechanism.

It may be taken for granted that partisans will contend that President Johnson is trying to be all things to all men and that he is therefore a weak leader. Nevertheless, a majority of the American population will probably recognize that his economic philosophy, as it has been indicated up to the moment, seems to be an effort to get everybody to pull together. Certainly it is within the prerogatives of the administration to point out—without political prejudice and with rancor—the responsibilities of the various sectors that make up the whole economy.

As the image of the economic philosophy of the Johnson administration has been shaping up recently, investment managers and business executives are likely to gain more confidence in the outlook for business activity, employment, and earnings.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in 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.

PANEL OF NATION'S OUTSTANDING LAWYERS SUPPORT CONSTITUTIONALITY OF TITLES II AND VII

Mr. HUMPHREY. Mr. President, during the debate on H.R. 7152 certain Senators have raised questions about the constitutional authority of Congress to enact the provisions dealing with equal access to public accommodations and equal employment opportunity, that is, titles II and VII of H.R. 7152. In order to clarify this important question, the distinguished Senator from California [Mr. KUCHEL] and I addressed a letter to two of the Nation's most distinguished lawyers, Harrison Tweed, of New York City, and Bernard G. Segal, of Philadelphia, requesting their opinion as to the constitutionality of these titles as passed by the House of Representatives.

Their reply has been received. The essence of their reply is that titles II and VII are unquestionably within the framework of the powers granted to Congress under the Constitution. Moreover, 20 respected members of the legal profession have joined in this letter.

Who are the lawyers signing this communication to the Senator from California and myself? They include, among others, three former Attorneys General of the United States—Francis Biddle, Herbert Brownell, and William P. Rogers—four former presidents of the American Bar Association—David F. Maxwell, John D. Randall, Charles S. Rhyne, and Whitney North Seymour—four law school deans—Erwin N. Griswold of Harvard, Eugene V. Rostow of Yale, John W. Wade of Vanderbilt, and William B. Lockhart of Minnesota—and many other leaders of the legal profession. Members of both political parties are included in the group as well as lawyers generally regarded as being liberal and conservative.

There has been a most unfortunate attempt by certain groups and individuals outside the Senate to obscure the true substance and objectives of the pending civil rights bill. One of the central themes used by these persons is that many sections of the civil rights bill are unconstitutional. I respectfully suggest that there are no finer or more highly respected legal minds in America than the 22 lawyers who authored this letter supporting the constitutionality of the public accommodations and equal

employment opportunity titles. In short, those Senators concerned with the question of constitutionality should be greatly reassured by this letter and the attached memorandum.

I believe the entire Senate owes these respected and public spirited members of the bar a vote of thanks for this highly constructive statement concerning the constitutionality of these two critical sections of the civil rights bill. I strongly urge every Member of the Senate to study this opinion with care and objectivity. It is a great privilege to have such impressive authority upon which to rely in presenting the affirmative case for prompt enactment of this legislation.

Mr. President, I ask unanimous consent that the following documents relating to this historic statement supporting the constitutionality of titles II and VII be printed at this point in the RECORD: the letter from the Senator from California and myself to Harrison Tweed and Bernard G. Segal; their letter in reply; a list identifying the signers of the letter; and a legal memorandum setting forth the precedents for this opinion.

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

MARCH 3, 1964.

HARRISON TWEED, Esq.,
New York, N.Y.
BERNARD G. SEGAL, Esq.,
Philadelphia, Pa.

DEAR MR. SEGAL: We anticipate taking an active part in the debate in the Senate with respect to H.R. 7152, the proposed Civil Rights Act of 1963. In this connection we understand that opponents of the bill have raised questions with respect to the constitutionality of title II of the bill, relating to discrimination in places of public accommodation, and title VII of the bill, relating to equal employment opportunity.

Obviously, the most serious consideration should be given to allegations relating to the constitutionality of measures of such significance, and we assume that you, as cochairman of the Lawyers' Committee for Civil Rights Under Law and as a practicing lawyer who has evidenced a vital interest in civil rights, have had occasion to consider these constitutional problems. We would, therefore, very much appreciate an expression of your views with respect to the constitutionality of these proposed titles. While we are very much interested in your own professional opinion, if you would prefer to submit the official views of the committee or to give your opinion in conjunction with other individual leaders of the bar who have had occasion seriously to consider the questions of constitutionality, we would be most grateful.

Sincerely yours,

HUBERT H. HUMPHREY.
THOMAS H. KUCHEL.

PHILADELPHIA, PA.,
March 30, 1964.

Hon. HUBERT H. HUMPHREY,
Hon. THOMAS H. KUCHEL,
U.S. Senate,
Washington, D.C.

DEAR SENATORS HUMPHREY AND KUCHEL: We have received your letters addressed separately to each of us, in which you request our views regarding the constitutionality of two parts of H.R. 7152, the proposed Civil Rights Act of 1963, now pending in the Congress, specifically title II, prohibiting discrimination in places of public accommodation, and title VII, providing for equal employment practices by certain employers, employment agencies, and labor unions.

Your inquiry requests our opinion either as cochairmen of the Lawyers' Committee for Civil Rights Under Law or in our individual capacities. We are replying in the latter role, and, in accordance with one of the suggestions in your letter, we have asked a number of other lawyers to consider the questions which you have raised and to join with us in formulating this statement. We want to make it clear that we are expressing our views solely on the constitutional issues raised in your letters and not on the merits of the bill.

Upon careful consideration of the established judicial precedents in this area of constitutional law, and in full recognition of the vital importance of the legal issues which are the subject of this letter, we conclude that title II and title VII are within the framework of the powers granted to Congress under the Constitution.

With respect to title II, the congressional authority for its enactment is expressly stated in the bill to rest on the commerce clause of the Constitution and on the 14th amendment. The reliance upon both of these powers to accomplish the stated purpose of title II is sound. Discriminatory practices, though free from any State compulsion, support, or encouragement, may so burden the channels of interstate commerce as to justify legally, congressional regulation under the commerce clause. On the other hand, conduct having an insufficient bearing on interstate commerce to warrant action under the commerce clause may be regulated by the Congress where the conduct is so attributable to the State as to come within the concept of State action under the 14th amendment.

The grounding of the public accommodations title on the commerce clause is in keeping with a long tradition of Federal legislation, validated in many judicial decisions, and is not today open to substantial legal dispute. In exercising its power to regulate commerce among the States, Congress has enacted laws, encompassing the widest range of commercial transactions, similar to the regulatory scheme of title II of H.R. 7152.

It is also clear that the discrimination or segregation prohibited by title II is subject to regulation by the Congress under its power to enact laws to enforce the equal protection clause of the 14th amendment where there is participation and involvement by State or local public agencies in the unlawful conduct. The decision of the Supreme Court in the *Civil Rights Cases*, 109 U.S. 3 (1883), in no way prevents the Congress from barring discrimination in those factual circumstances constituting State action under the 14th amendment.

With respect to the equal employment opportunity provisions of title VII, there are many decisions of the Federal courts upholding under the commerce clause similar laws regulating employment relationships which in some fashion impinge on interstate commerce.

Powers which Congress can exercise under one part of the Constitution may be limited by guarantees found elsewhere in the Constitution. In our opinion, neither title II nor title VII imposes such arbitrary restrictions upon private property or on the operation of private business as to conflict with due process requirements. In the development of congressional authority under the commerce clause and other express grants of power, statutes designed to enhance individual rights and to ameliorate working conditions have been regularly upheld by the courts even though they have in some measure affected property or contract rights.

For your convenience, we are attaching a brief legal memorandum reviewing the applicable authorities.

The lawyers who join in this reply to your request for an opinion, are listed below.

Sincerely,

HARRISON TWEED.
BERNARD G. SEGAL.

OTHER LAWYERS JOINING IN THE ABOVE OPINION

Joseph A. Ball, Long Beach Calif.
Francis Biddle, Washington, D.C.
Herbert Brownell, New York City.
Homer D. Crotty, Los Angeles, Calif.
Lloyd N. Cutler, Washington, D.C.
Norris Darrell, New York City.
James C. Dezendorf, Portland, Oreg.
Erwin N. Griswold, Cambridge, Mass.
Albert E. Jenner, Jr., Chicago, Ill.
William B. Lockhart, Minneapolis, Minn.
William L. Marbury, Baltimore, Md.
David F. Maxwell, Philadelphia, Pa.
John D. Randall, Cedar Rapids, Iowa.
Charles S. Rhyne, Washington, D.C.
William P. Rogers, Washington, D.C.
Samuel I. Rosenman, New York City.
Eugene V. Rostow, New Haven, Conn.
Whitney North Seymour, New York City.
Charles P. Taft, Cincinnati, Ohio.
John W. Wade, Nashville, Tenn.

IDENTIFICATION OF SIGNERS OF LETTER

Joseph A. Ball: Ball, Hunt & Hart, Long Beach, Calif., past president, State Bar of California.

Francis Biddle: Washington, D.C., former Attorney General of the United States.

Herbert Brownell: Lord, Day & Lord, New York City, former Attorney General of the United States; president, Association of the Bar of the City of New York.

Homer D. Crotty: Gibson, Dunn & Crutcher, Los Angeles, Calif., past president, State Bar of California; member of council, American Law Institute.

Lloyd N. Cutler: Wilmer, Cutler & Pickering, Washington, D.C., president, Yale Law School Association.

Norris Darrell: Sullivan & Cromwell, New York City, president, American Law Institute.

James C. Dezendorf: Koerner, Young, McColloch & Dezendorf, Portland, Oreg., past president, National Conference of Commissioners on Uniform State Laws; vice president, American Judicature Society.

Erwin N. Griswold: Cambridge, Mass., dean, Harvard Law School.

Albert E. Jenner, Jr.: Thompson, Raymond, Mayer & Jenner, Chicago, Ill., past president, American Judicature Society; past president, American College of Trial Lawyers.

William B. Lockhart: Minneapolis, Minn., dean, University of Minnesota School of Law.

William L. Marbury: Piper & Marbury, Baltimore, Md., member of council, American Law Institute.

David F. Maxwell: Obermayer, Rebmann, Maxwell & Hippel, Philadelphia, Pa., past president, American Bar Association; former chairman of house of delegates, American Bar Association.

John D. Randall: Cedar Rapids, Iowa, past president, American Bar Association; former chairman of house of delegates, American Bar Association.

Charles S. Rhyne: Rhyne & Rhyne, Washington, D.C., past president, American Bar Association; former chairman of house of delegates, American Bar Association.

William P. Rogers: Royall, Koegel & Rogers, Washington, D.C., and New York City, former Attorney General of the United States.

Samuel I. Rosenman: Rosenman, Colin, Kaye, Petchek & Freund, New York City, former special counsel to President Franklin D. Roosevelt and President Harry S. Truman.

Eugene V. Rostow: New Haven, Conn., dean, Yale University Law School.

Bernard G. Segal: Schnader, Harrison, Segal & Lewis, Philadelphia, Pa., president-elect, American College of Trial Lawyers;

former chairman of the board, American Judicature Society.

Whitney North Seymour: Simpson, Thacher & Bartlett, New York City, president, American College of Trial Lawyers; past president, American Bar Association.

Charles P. Taft: Taft, Lavercome & Fox, Cincinnati, Ohio, former mayor of Cincinnati.

Harrison Tweed: Milbank, Tweed, Hadley & McGloy, New York City, chairman of council and past president, American Law Institute; chairman, Joint Committee on Continuing Legal Education (A.L.I. and A.B.A.).

John W. Wade: Nashville, Tenn., dean, Vanderbilt University School of Law.

MEMORANDUM

TITLE II

Title II enunciates a policy of the right of all persons to the full and equal enjoyment of service in hotel facilities, in eating places, in gasoline stations, and in premises offering entertainment, and prohibits discrimination or segregation in the access to such establishments on the ground of race, color, religion, or national origin. An establishment which serves the public is subject to the restrictions of title II if its operations affect interstate or foreign commerce or if the proscribed discrimination or segregation which it practices is supported by State action.

The kind of prohibited activity contemplated by the terms "discrimination" and "segregation" is sufficiently clear to withstand any possible charge of uncertainty. The courts have dealt with the concept of discrimination in the context of similar legislation, Federal and State, so as to fashion a measurable standard of conduct which constitutes discrimination and segregation on the grounds set forth in title II. For example, in *Boynton* v. *Virginia,* 364 U.S. 454 (1960), the Supreme Court concluded that the segregation of seating facilities at a bus terminal serving interstate travelers was in violation of the Interstate Commerce Act's prohibition against unjust discrimination.

The use of the commerce clause as one of the grounds for framing the public accommodations title is in accord with what has by now become a traditional pattern of regulatory legislation. In exercising its power to regulate commerce among the States, Congress has adopted laws applicable to a wide variety of commercial transactions. The mere enumeration of some of the better known statutes which have become accepted as part and parcel of our national economic structure demonstrates the broad range of the commerce clause.

In attempting to maintain free competition in the marketing of goods, in striving to assure the health of our people, in eliminating the abuse of working women, children and others in the labor force, and in responding to many other economic and social problems, Congress has passed the Sherman Antitrust Act, the Robinson-Patman Act, the Fair Labor Standards Act, the National Labor Relations Act and its supplementary statutes, food and drug legislation, the Federal Trade Commission Act, laws regulating rail, motor and air transportation, the Agricultural Adjustment Act and countless other measures whose constitutionality is now beyond question.

Congress may select the objects of regulation, and it has broad power to determine the remedy best adapted to carry out the purpose of legislation enacted under the commerce clause.

In the case upholding the constitutionality of the National Labor Relations Act of 1935, *N.L.R.B.* v. *Jones & Laughlin Steel Corp.,* 301 U.S. 1, 36 (1937), Chief Justice Hughes, speaking for the Supreme Court declared:

"The fundamental principle is that the power to regulate commerce is the power to enact all appropriate legislation for its protection and advancement * * * to adopt measures to promote its growth and insure its safety * * * to foster, protect, control and restrain."

Likewise, in *United States* v. *Darby,* 312 U.S. 100, 114 (1941), Chief Justice Stone, in an opinion upholding the validity of the Fair Labor Standards Act, reiterated that "the power of Congress over interstate commerce is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed by the Constitution." The remedy which Congress selected for assuring decent wages and hours for a large segment of the American labor force was to regulate the working conditions in factories producing goods which may find their way in interstate commerce.

Under the authority of these and other cases, Congress, seeking to outlaw discrimination against interstate travelers, may cast its regulatory mold in the manner best calculated to achieve the desired result. Thus, Congress may determine, as in title II, that a hotel, motel, or similar establishment of more than five rooms offering lodging to transient guests is likely to be utilized by interstate travelers and thereby to affect interstate commerce. Eating places, gasoline stations, or facilities providing entertainment or sports events involve interstate commerce because they serve interstate travelers or because the food or gasoline to be sold, the motion pictures to be exhibited and the participating artists or athletes normally move in interstate commerce.

Precedents in this field are abundant. By way of example, the courts have held subject to Federal regulation a restaurant in a bus terminal serving interstate travelers (*Boynton* v. *Virginia,* 364 U.S. 454 (1960)), and local establishments preparing or supplying food for consumption on interstate carriers (*Mitchell* v. *Sherry Corine Corp.,* 264 F. 2d 831 (4th Cir.), cert. den., 360 U.S. 934 (1959)). Restraints of trade on the manner or extent of the local exhibition of motion pictures (*Interstate Circuit* v. *United States,* 306 U.S. 208 (1939)). stage attractions (*United States* v. *Shubert,* 348 U.S. 222 (1955)), boxing matches (*United States* v. *International Boxing Club,* 348 U.S. 236 (1955)), and football games (*Radovich* v. *National Football League,* 352 U.S. 455 (1957)), have all been held to be subject to Federal legislation predicated on the commerce clause. The supporting theory is that the exhibitions, and those who take part in them, move from State to State and the particular restraint would limit the freedom or the volume of interstate transactions.

By similar reasoning, the courts have sustained the application of the antitrust laws to retail establishments serving people or selling goods that move in interstate commerce (*United States* v. *Frankfort Distilleries,* 324 U.S. 293 (1945)). An agreement which narrows the market for products or persons moving in interstate trade, such as a boycott or a joint refusal to deal, may be reached under the commerce clause. It follows that if Congress so desires, it should also be able to forbid an individual refusal to deal just as it now prohibits individual discrimination in prices under the Robinson-Patman Act.

Although racial discrimination may or may not have the same commercial motivation as the economic restrictions involved in antitrust and similar violations, a legislative judgment of the adverse effect of such discrimination on the freedom or volume of the interstate movement of people and goods cannot, under the decided cases, be subject to serious doubt. Whatever its nature, a practice which has a detrimental or limiting effect on commerce may be reached by the Congress under the commerce clause.

The extent to which the discriminatory action of any one of the establishments covered by title II adversely affect interstate commerce is not controlling provided there is some connection with such commerce. It is the "total effect" of many individual obstructions upon commerce (*United States* v. *Darby, supra* at 312 U.S. 123), and their recurring nature (*Board of Trade of Chicago* v. *Olsen,* 262 U.S. 1 (1923)), which are significant in determining congressional power. The Chicago case upheld an act regulating dealings in grain futures in an opinion by Chief Justice Taft. Justice Taft, recognizing that the transactions on the board of trade may not in and of themselves be in interstate commerce, posed the test of congressional power as to "whether the conduct of such sales is subject to constantly recurring abuses which are a burden and obstruction to interstate commerce in grain" (262 U.S. at 36).

Many small businesses comparable to those within the scope of title II are today subject to Federal statutes passed pursuant to the commerce clause. The corner general merchandise store is deeply immersed in regulation under the congressional commerce power. The food which it sells, the drugs it provides, the advertising it displays and the wages paid to its employees are all affected by Federal legislation premised on the commerce power. And this regulatory authority is not limited by the size of an enterprise or by the volume of its interstate business. Classic examples generally cited are the 23-acre wheat field producing 239 bushels of wheat held to be subject to control under the Agricultural Adjustment Act (*Wickard* v. *Filburn,* 317 U.S. 111 (1942)), and the newspaper circulating a handful of 45 copies outside its home State held to be governed by Federal wage and hour regulations (*Mabee* v. *White Plains Publishing Co.,* 327 U.S. 178 (1946)).

The principle that it is the accumulated impact of individual obstructions upon commerce which justifies the exercise of congressional power was restated by the Supreme Court last year in *N.L.R.B.* v. *Reliance Fuel Corp.,* 371 U.S. 224, 226 (1963)):

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

The fact that in exercising its indisputable power to remove obstructions to interstate commerce, Congress at the same time seeks to accomplish an additional purpose, such as the improvement of working conditions or the elimination of unequal treatment based on racial considerations, does not preclude reliance upon the commerce clause. Chief Justice Stone made this eminently clear in his monumental opinion upholding the validity of the Fair Labor Standards Act (*United States* v. *Darby, supra*). Justice Stone's language is particularly apt in considering the validity of title II:

"The motive and purpose of the present regulation is plainly to make effective the congressional conception of public policy that interstate commerce should not be made the instrument of competition in the distribution of goods produced under substandard labor conditions, which competition is injurious to the commerce and to the States from and to which the commerce flows. The motive and purpose of a regulation of interstate commerce are matters for the legislative judgment upon the exercise of which the Constitution places no restriction and over which the courts are given no control. Whatever their motive and purpose, regulations of commerce which do not infringe some constitutional prohibition are within the plenary power conferred on Congress by the commerce clause" (312 U.S. at 115).

We have dwelt at length on the commerce clause basis for title II because this appears to be one of the key legal issues generated by the pending legislation. The second source of constitutional power cited in title II is the equal protection clause of the 14th amendment.

State or local legislation requiring discrimination in public accommodations is a denial of equal protection under the 14th amendment (*Peterson* v. *Greenville*, 373 U.S. 244 (1963)). A wide variety of other circumstances may meet the "State action" test of the 14th amendment. For example, in *Lombard* v. *Louisiana*, 373 U.S. 267 (1963), statements favoring segregation made by city officials during a period of racial unrest were held to have so affected the decision of a store owner not to serve Negroes as to make his action the result of invalid State discrimination rather than the product of purely private whim. The lease by a municipal airport, or by a public parking authority, of a restaurant located in its building was held in *Turner* v. *Memphis*, 369 U.S. 350 (1962), and *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715 (1961), to make the State responsible for the discrimination practiced by the tenant. According to the Burton case, any significant "degree of State participation and involvement in discriminatory action" may subject that action to Congress power under the 14th amendment.

Reliance upon the 14th amendment is consistent with the *Civil Rights* cases, 109 U.S. 3 (1883). The Civil Rights Act of 1875 was declared invalid because it was not aimed at State action but rather at individual conduct. The defect found by the Supreme Court in the 19th century legislation would seem to have been corrected by predicating title II upon discriminatory conduct supported by State action.

In our considered judgment, the commerce clause and, where State action is involved, the 14th amendment are sound constitutional bulwarks supporting the validity of title II of H.R. 7152.

TITLE VII

Title VII of the proposed Civil Rights Act of 1963 enunciates a national policy of equal opportunity for employment free from discrimination. The equal employment title is based expressly upon the commerce clause. Section 701(b) also declares it to be the purpose of Congress to insure the full "enjoyment by all persons of the rights, privileges and immunities secured and protected by the Constitution of the United States."

The employers covered by the proposed legislation would ultimately be those having 25 or more employees. For the first 3 years after its effective date, title VII would cover those employers having a greater number of employees as prescribed in section 702(b). Also subject to this title would be employment agencies and labor organizations.

In the customary pattern of State and local fair employment legislation, title VII sets forth certain unlawful employment practices by employers, employment agencies and labor organizations. Generally, these practices relate to discrimination, segregation and other types of unequal treatment or withholding of privileges because of race, color, religion, sex, or national origin.

A procedure is established for the implementation of the purposes of the title by an Equal Employment Opportunity Commission and for resort to the courts when allegedly unlawful employment practices cannot be voluntarily eliminated.

The same considerations which support the conclusion that the public accommodations title is valid under the commerce clause, particularly the landmark Jones & Laughlin and Darby cases, are equally applicable here. Many of the prior statutes regulating labor relations under the commerce clause upheld by the Supreme Court are directly analogous to the provisions of title VII.

Starting with the National Labor Relations Act and continuing through the Labor Management Reporting and Disclosure Act of 1959, Congress has enacted comprehensive legislation regulating labor and management practices. The Fair Labor Standards Act and similar statutes, which have as their purpose the improvement of the condition of persons whose work affects interstate or foreign commerce, furnish ample authority for the attempt in title VII to prohibit discrimination in employment practices. It is but a short step to proceed from a statute which prevents the discharge of workers for union activity to one which seeks to outlaw discrimination in employment on account of race. In a case involving the applicability of the Norris-LaGuardia Anti-Injunction Act to the picketing of a store denying equal employment opportunities to Negroes, Justice Roberts, speaking for the Court, said, with somewhat prophetic insight:

"The desire for fair and equitable conditions of employment on the part of persons of any race, color, or persuasion, and the removal of discriminations against them by reason of their race or religious beliefs is quite as important to those concerned as fairness and equity in terms and conditions of employment can be to trade or craft unions or any force of labor organization or association. Race discrimination by an employer may reasonably be deemed more unfair and less excusable than discrimination against workers on the ground of union affiliation" (*New Negro Alliance* v. *Sanitary Grocery Co.*, 303 U.S. 552, 561 (1938)).

Employers, employment agencies as well as labor organizations whose business or activities affect interstate or foreign commerce are clearly subject to congressional legislative authority.

The decisions which have upheld statutes adopted under the commerce clause or other powers contained in the Constitution recognize that congressional authority is restricted by the due process of law guarantee of the fifth amendment. It is evident that most Federal regulatory statutes constitute a limitation to some extent on the use of private property or the exercise of private rights.

The National Labor Relations Act is an example of the type of Federal legislation upheld by the courts against the charge of interference with property rights (*N.L.R.B.* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 43 (1937)). The courts have dealt in the same manner with State legislation enacted under local police powers which has been challenged under the due process clause of the 14th amendment. In meeting this attack, the Supreme Court said in *Nebbia* v. *New York*, 391 U.S. 502, 538 (1934):

"The Constitution does not secure to any one liberty to conduct his business in such fashion as to inflict injury upon the public at large, or upon any substantial group of the people."

Nebbia and cases of like import are relevant because the power of Congress to deal with interstate commerce is similar to the authority of the State to regulate activities within the State. Titles II and VII do not seem to involve any greater interference with private rights than many of the Federal regulatory statutes to which we have referred or similar State legislation. The Supreme Court has upheld State and local antidiscrimination measures in *Railway Mail Association* v. *Corsi*, 326 U.S. 88 (1945), a New York statute barring racial discrimination by labor unions, and *District of Columbia* v. *Thompson Co.*, 346 U.S. 100 (1953), a local law prohibiting discrimination on account of race in eating places.

We have not tried to provide in this memorandum an exhaustive discussion of the legal authorities in support of our views. From a review of the leading decisions of the courts, we have sought to cull out the fundamental principles governing congressional power under the Constitution and to refer specifically to a few cases which contain important holdings.

We are mindful of the heavy responsibility which each Member of Congress bears in acting upon this legislative proposal, and we hope that the above analysis will be of some assistance in discharging that responsibility. We are honored by the opportunity to be of help in attempting to clarify some of the legal issues involved in H.R. 7152.

TITLE VI

Mr. PASTORE. Mr. President, why is title VI necessary to the civil rights bill, H.R. 7152? Let me explain.

In the community of Greensboro, N.C., there are two excellent hospitals. They are numbered among the most modern in the area. This is due, in part, to Federal financial assistance. Under the Hill-Burton Act, one of these hospitals received $1,300,000 in Federal aid. That took care of over 17 percent of its construction costs. The other hospital accepted nearly $2 million from the Federal Government. This satisfied half the cost of its construction. They are two very good hospitals. But there was one thing wrong with both of them: The doors of these two hospitals would not open to a large segment of the Greensboro community. Their modern medical care was denied to those whose skin was colored—denied strictly and solely on the basis of the color of the patient's skin. The Federal funds that helped to build these hospitals were raised, of course, by taxation—taxes paid by both white and Negro citizens. But the Negro in need of care could not get it at these hospitals simply because he was a Negro.

It was natural that such a flagrant case should be litigated in our courts. A month ago, on March 2, 1964, the Supreme Court, across the street, terminated this specific case of discrimination. The lower court, the Court of Appeals for the Fourth Circuit, had decided that the two hospitals involved could no longer decline to treat patients or to refuse to admit doctors to their staffs strictly for racial reasons.

The court summed up the effect of such discrimination with this comment:

> Racial discrimination in medical facilities is at least partly responsible for the fact that in North Carolina the rate of infant mortality (for Negroes) is twice the rate for whites and maternal deaths are five times greater (*Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F. 2d 959, 970 n. 23).

The Supreme Court declined to review that decision; so it is the law of our land. Yet, despite the effort of the court of appeals to strike down discrimination in the Simkins case, the same court was forced last week to rule again in a Wilmington, N.C., suit that a private hospital operated with public funds must desist from barring Negro physicians from staff membership.

That is why we need title VI of the Civil Rights Act, H.R. 7152—to prevent such discrimination where Federal funds are involved.

Title VI intends to insure once and for all that the financial resources of the Federal Government—the common

wealth of Negro and white alike—will no longer subsidize racial discrimination.

Title VI is sound; it is morally right; it is legally right; it is constitutionally right.

What will it accomplish? It will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind.

Let me say it again: The title has a simple purpose—to eliminate discrimination in federally financed programs.

For 10 years there has been ringing in our ears the finality of the Court decision that segregation and racial discrimination are contrary to our Constitution. Our consciences have been telling us that for more than a century. It is morally inexcusable to impose an inferior status on the Negro.

We all realize that segregation is a caste system imposing an inferior status on the Negro citizen from cradle to grave; but are we all so aware that Uncle Sam is a partner in the erection, maintenance, and perpetuation of that system? The toll of "separate and most unequal" begins with birth of the Negro in a segregated hospital constructed with Federal funds.

As I indicated earlier, one court has already ruled that the chances of survival of a Negro infant and a Negro mother giving birth are significantly reduced because of discrimination.

It is peculiar that the cycle of a Negro's life ends grimly with a different type of discrimination. In Atlanta, for example, it is the Negro who receives the favored treatment—the specialized training in embalming and mortuary science, under federally supported programs which are available only to members of his race; but, unfortunately, in the arts of preserving life and restoring health, the Negro is not so favored.

The same federally financed program denies to the Negro instruction in the X-ray, medical technician, and pharmacist courses. Negro doctors do not have access to hospitals with adequate facilities. Nonetheless, the Federal Government finances the construction of hospitals which admit Negro patients only in dire extremity, and then only if they discharge their own doctor and accept the services of another doctor, who—though a total stranger—has the distinction of being white. We might have hoped that discrimination in hospitals would cease after the court of appeals ruled in the Simkins case; but as we see, the same court was forced to rule again last week that hospitals must admit Negro doctors to their staffs.

The practical nurses who minister to the sick are trained under programs financed by the Public Health Service. Yet, separate classes are run for Negroes and separate classes are run for white candidates. Even in the care and training of those who are afflicted by blindness and mental retardation, there are cities which provide training adjustment services and sheltered employment opportunities for whites only—Commission on Civil Rights, 1961 report, employment, page 113. Between birth in a segregated hospital and embalmment by a Negro mortician, there is an entire life process of growing up, being sheltered and fed, going to school and seeking employment. At each step of the journey, there is likely to be a sign reading "For whites only," a sign paid for with Federal funds.

In Leflore County, Miss., in March of last year, distribution of Agriculture Department surplus was cut off from Negro recipients. Negro groups charged that this action was in response to a voter registration drive—Jackson Daily News, March 20, 1963. The act of testifying before the Commission on Civil Rights has led in one case to a cutoff in aid to dependent children funds to a witness. And in July of last year, 11 persons who took part in demonstrations in Danville, Va., were declared ineligible for unemployment compensation benefits.

Certainly the use of basic life sustaining programs as retaliatory weapons attracts notoriety. Consistent discrimination in the administration of federally sponsored programs—though less sensational—is far more the rule. For instance, the school lunch program is not administered free of discrimination. I am not talking now about the fact that the program is administered in segregated schools. That is a different issue. I am talking about situations such as that in Greenwood Separate School District of Mississippi, where, during the years 1960–62 Negro children, who make up half the average daily attendance in Greenwood schools, received only one-fifth of the free lunches served—letter from Department of Agriculture, dated March 15, 1963, in file of the Civil Rights Commission.

I ask unanimous consent that the letter and excerpt from the report be printed at this point in the RECORD.

There being no objection, the letter and excerpt were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 15, 1963.

To: William L. Taylor, Assistant Staff Director, U.S. Commission on Civil Rights.

From: William M. Seabron, Assistant to the Director.

Subject: Federal programs in Mississippi—School lunch.

The attached information is in further reply to your request of February 27.

Included are copies of the reports on the claims for reimbursement under the lunch and milk programs of the school districts of Clarksdale, Greenwood, McComb, and Meridian and information on free lunches served in these districts.

The remaining items of information requested, bearing upon the distribution of government donated commodities in these four school districts is being assembled and is expected to arrive here on or about March 19.

WM. M. SEABRON.

County and school district	Average daily attendance	White		Negro	
		Percent average daily attendance	Percent free lunch	Percent average daily attendance	Percent free lunch
Greenwood Separate:					
1960–61	4,943	57	79	43	21
1961–62	5,130	57	80	43	20
January 1963	5,299	57	77	43	23

Mr. PASTORE. This is rather difficult to explain, since the program is particularly directed at helping the needy, and since, according to the 1960 census, the median income of white families is almost three times the median income of Negro families.

Nor is this an isolated case. Throughout the entire State of North Carolina, during the years 1959 and 1960, the percentage of white participation in the school lunch program was 64 percent, while the percentage of Negro participation was 39 percent—U.S. Civil Rights Commission, Equal Protection of the Laws in North Carolina, page 105, 1959–62.

I ask unanimous consent that the excerpt from the report be printed at this point in the RECORD.

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

U.S. CIVIL RIGHTS COMMISSION—EQUAL PROTECTION OF THE LAWS IN NORTH CAROLINA

LUNCHROOM PROGRAM

In the year 1959–60, 1,391 out of 2,206 white schools participated in the lunchroom program.

For the same year, 396 out of 996 Negro schools participated in such programs.

The percentage of white participation was 64 percent, and the percentage of Negro participation was 39 percent.

Since the average Negro income is approximately one-half the white average, the Negro need for lunchroom service is presumably twice as great. We have no means of knowing all the reasons for this disparity, and have not had the opportunity of making a complete investigation on this point.

Mr. PASTORE. Mr. President, here, too, this disparity appears to be in inverse proportion to need since the average Negro income is approximately one-half the white average.

When we turn from school lunches to school facilities themselves, we find other examples of Uncle Sam's participation in racial discrimination. Under Public Laws 874 and 815, the Federal Government contributes substantially to the construction, maintenance, and operation of schools. This is in areas where activities of the United States have placed a financial burden on local school districts. These are not small, isolated situations. Since 1950, the U.S. Government has appropriated more than $1 billion dollars for school construction, and another billion dollars for the operation and maintenance of schools in federally impacted areas—1963 report, U.S. Commission on Civil Rights, page 199. Over one-third of these disbursements has gone to Southern and border States. Yet, in many of these States,

the education which the Federal Government is buying is carried out in segregated schools.

In Mississippi during the year 1963, the Federal Government spent nearly $1½ million for the maintenance and operation of schools; over $40,000 for the construction of new schools. Yet there is not a single desegregated school district in Mississippi.

In Louisiana during 1963, the Federal Government spent over $1,300,000 for the maintenance and operation of schools, and over $86,000 for construction of new schools. All of these expenditures were in school districts which have not desegregated. In South Carolina, during 1963, the Federal Government spent well over $4 million for the maintenance and operation of schools, and over a quarter of a million for new construction in school districts which have not desegregated—HEW, administration of Public Laws 874 and 815, 1962. These gross figures tell the scale on which the United States is underwriting the construction and operation of segregated systems.

But the irony of these statistics comes through also in specific examples. Thus, at one Air Force base in Alabama, Negro children of servicemen must bypass a school built and maintained by Federal funds, on their way to a more distant Negro school—U.S. Commission on Civil Rights, 1963 report, page 199.

I ask unanimous consent that the excerpt from the report be printed in the RECORD.

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

Although the Department of Health, Education, and Welfare is authorized by statute to prescribe minimum standards and conditions for dispensing these funds,[1] until 1962 the Secretary had not construed his authority as being broad enough to require that federally supported schools must be operated in compliance with the Constitution.[2] The result has been that there are schools adjacent to military installations which are built, maintained, and operated almost entirely with Federal funds and attended almost exclusively by the children of military families, which exclude Negro children.[3] At one Air Force base in Alabama, Negro children bypass such a school every day on their way to the more distant Negro school.[4] Not only is the school operated with Federal funds; it was built upon property deeded by the Federal Government to the school district in 1955 soon after the Defense Department's policy of integration of on-base educational facilities went into effect.[5] The deed did not require that the school be operated for the benefit of all children.[6]

Mr. PASTORE. Mr. President, a similar situation occurs in Columbus, Miss., where two Negro sergeants were unable to obtain admission for their children in a school built and maintained by Federal "impacted area funds." Nine hundred of the 1,000 children attending that school were from the Air Force base; the Federal Government pays $188 per pupil to the local school board—Baton Rouge State Times, page 16, September 11, 1963.

I ask unanimous consent that the article be printed at this point in the RECORD.

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

[From the Baton Rouge (La.) State Times, Sept. 11, 1963]

COLUMBUS, MISS., SCHOOL REOPENED FOR AIR FORCE CHILDREN

COLUMBUS, MISS.—The city school board voted Tuesday night to reopen an elementary school for Columbus Air Force Base children.

John Henry, board president, said he had been assured that the normal Federal "impacted area" money will be given the city school system.

The board stipulated in voting to reopen Brandon Elementary School that the school district will continue to be racially segregated.

About 900 of the 1,000 pupils at the school are from the airbase, which lies about 7 miles away.

The board said it closed Brandon and barred outside children from other city schools because it had not received its "impacted area" funds. The action came shortly before two Negro sergeants asked that their children be moved to a white school.

The Air Force notified the board several weeks ago that the usual "impacted area" funds were available upon application. Last year, the board drew $188 per AFB pupil.

Mr. PASTORE. According to newspaper accounts, the annual payroll—of the personnel on the base—is an estimated $15 million, a healthy slice of the city's economy.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "School for Airbase Pupils Closed by Mississippi City," published in the Memphis Commercial Appeal on August 23, 1963.

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

[From the Memphis Commercial Appeal, Aug. 23, 1963]

SCHOOL FOR AIRBASE PUPILS CLOSED BY MISSISSIPPI CITY

COLUMBUS, MISS., August 22.—The Columbus School Board announced after a stormy special session Thursday night it will refuse to allow almost 1,000 children of personnel living at Columbus Air Force Base to attend the city's schools during the 1963–64 terms.

Although the board's action bore no mention of race, the city has been under pressure from Washington in recent weeks to lower racial barrie s.

Supt. J. E. "Shag" Goolsby said the decision, which includes closing of Columbus' newest elementary school, was made because the board has received no assurance that it will receive Federal tuition funds for Air Force dependents.

"We're not aiming this primarily at the airbase kids or any special group," Mr. Goolsby said. "Without these (Federal) school funds, we would have to operate at a large deficit or call for a heavy increase in taxes.

Members of the board, who were seen to be in heated debate during the 2½-hour meeting in Mr. Goolsby's office, said in a five-part resolution "the first duty of this board of trustees is to those pupils and parents residing in this school district."

The school which will not open for the new term bginning August 30 is Brandon Elementary, a $650,000 facility for white children opened 2 years ago.

About 600 children of personnel living on the base attended the school last term. Mr. Goolsby said the "handful" of Brandon students who live within the city limits will be transferred to other schools.

The board's decision also affects more than 300 Air Force dependents who attended the city's junior and senior high schools last term.

Children of Negro personnel have attended city schools for Negroes in the past.

The fourth part of last night's resolution stated "that no student living outside the Columbus Separate School District (will) be admitted as students except as previously provided."

The board did not mention a directive issued by the Defense Department earlier this month which is aimed at declaring "off limits" to military personnel any place that practices racial discrimination.

Columbus Air Force Base which is about 10 miles north of the city, is manned by about 6,000 Air Force personnel and 2,000 civilians. Its annual payroll is an estimated $15 million, a healthy slice of the city's economy.

Officials from the base did not attend last night's meeting, which was closed to reporters.

Mr. PASTORE. When we turn from elementary and high school education to higher education we find the same story. The latest detailed analysis of disbursement of Federal funds to institutions of higher education was made in 1960. However, the picture has not been markedly altered by the entry of a small number of Negroes into previously all-white universities.

The following figures on disbursements to institutions of higher education come from the 1960 Report of the Civil Rights Commission on Equal Protection of the Laws in Public Higher Education.

Over half of the $100 million loaned to institutions of higher learning in Southern States under the college housing loan program went to institutions which exclude Negroes.

Under the national defense fellowship program, 64 percent of the $1.3 million was given to institutions of higher learning in the South which exclude Negroes.

Forty percent of the $780,000 in Federal funds paid for counseling and guidance institutions went to institutions of higher education which exclude Negroes.

---

[1] Public Law No. 815, sec. 12(b), 72 Stat. 554 (1958), 20 U.S.C., sec. 642(b) (1958).

[2] On Feb. 27, 1962, Secretary Ribicoff stated that "I think we are completely without authority to act" on this issue. House Education Hearings 18.

[3] Such schools have been constructed and operated near the Redstone Arsenal in Alabama, Washington (D.C.) Post, Mar. 4, 1959, p. 9; the Little Rock Air Force Base in Arkansas, Washington (D.C.) Post, Aug. 24, 1958, p. 4; and at installations visited by Commission staff in Alabama, Nov. 5, 1962, and in South Carolina, Aug. 22 and 29, 1962.

[4] Maps of Maxwell Air Force Base, Gunter Air Force Base, and city of Montgomery, Ala., copy retained in Commission files. Commission staff interview with Negro serviceman in Alabama, Nov. 5, 1962.

[5] Quitclaim deed, contract No. SA–IV–18, Sept. 19, 1955, between the Secretary of Health, Education, and Welfare and the Board of Education, Montgomery County, Ala., copy retained in Commission files. Base officials knew that the school would exclude children of Negro personnel when they recommended the transfer of land to local education authorities. Letter from Acting Commander, Air University, Maxwell AFB, to Headquarters USAF, June 14, 1955, copy retained in Commission files.

[6] Ibid.

Forty-five percent of the $325,000 paid for language institutes, public colleges and universities in Southern States went to institutions which exclude Negroes.

Two-thirds of the $240,000 paid to public colleges and universities in Southern States under the educational media program were given to schools which exclude Negroes.

Two-thirds of the $3.9 million paid to southern institutions of higher learning through the National Science Foundation were received by institutions which exclude Negroes.

One hundred percent of the $17,905,609 granted to land grant colleges and universities in the South under the agricultural extension programs were to those institutions which exclude Negroes.

Forty-three percent of the $5.3 million granted in National Institutes of Health grants to southern colleges and universities went to institutions which exclude Negroes.

Forty-one and three-tenths percent of Atomic Energy Commission grants to Southern colleges and universities went to institutions which exclude Negroes.

Thirty-three percent of the $562,000 granted to southern colleges and universities as National Science Foundation fellowships went to institutions which exclude Negroes.

Fifty-five percent of the $3.5 million provided for southern institutions of higher learning under the National Defense Education Act went to institutions which exclude Negroes.

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

Mr. PASTORE. I yield.

Mr. JOHNSTON. The colored schools get aid from the Government, too. All of it goes to the colored people in the colored colleges. Is that not true?

Mr. PASTORE. It may be true; but what I have stated is precisely what we are doing with Federal moneys. We are segregating them to the disadvantage of the Negro. Federal money comes from the U.S. Treasury. It belongs to the taxpayers of the United States. It goes into one Treasury. It is a fund that is created and sustained by the wealth of all Americans, regardless of race, color, creed, national origin, or religion. It is the common wealth of our Nation.

All we are saying is that so long as we spend that money to support a "separate but equal" system which has been denounced by the Supreme Court of the United States, we are committing an unconstitutional act—an act which is not only constitutionally wrong but absolutely morally wrong.

I realize that there are some institutions in the South that receive Federal aid which harbor Negro students alone.

Mr. JOHNSTON. I should like to point out one other thing about my State. If the Senator will refer to the report of the Civil Rights Commission, he will find that both Clemson College and the University of South Carolina are desegregated at the present time.

Mr. PASTORE. We welcome more of it.

Mr. JOHNSTON. The Senator will also find that a few years ago the citizens of the State of South Carolina floated a bond issue in the amount of $100 million. The Senator will find that more than 50 percent of those funds went to the building of schoolhouses for colored students, who constitute about one-third of the school population.

Mr. PASTORE. I do not dispute that statement. All my distinguished friend, the Senator from South Carolina, is telling me is that he believes in segregated schools. He believes that his State should maintain schools exclusively for whites and schools exclusively for Negroes. But I am saying that the U.S. Supreme Court has said that such a system is absolutely wrong. All I am saying now is that we should not use the common wealth of the people of the United States to promulgate, to sustain, to continue, and to promote that kind of system. Title VI would eliminate that system once and for all. It would declare that the policy of the Congress of the United States and the policy of the United States of America is that the "separate but equal" doctrine is dead, as it should be.

Mr. JOHNSTON. Would the Senator be willing to let the parents of colored children in each school district in South Carolina vote to say whether or not they wanted desegregated or segregated schools?

Mr. PASTORE. I have no jurisdiction over that kind of vote.

Mr. JOHNSTON. If the Senator would ever let them have a vote on the question, I believe he would find what the Negroes in South Carolina really want.

Mr. PASTORE. That is not the way I hear it. I have listened to a great number of Negro citizens from South Carolina and from all over the country. They feel the indignity, the humility, and the disrespect of being set aside as a peculiar, unique kind of people who do not rate as equal Americans, and must be treated as though they were a different species of humanity, even though they are created in the image of their own Lord, even as the present occupant of the chair [Mr. KENNEDY] and I are, although by chance our skin happens to be white. That is all they desire. They wish to be treated alike, and they have a right to be treated alike. That is what we are trying to accomplish.

Mr. JOHNSTON. I too, wish to see them treated alike. I should like each one given the privilege to do what he desires to do and not have a system forced upon him by the Federal Government.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield?

Mr. PASTORE. I yield to the distinguished Senator from the great State of Connecticut.

Mr. RIBICOFF. Is it not true, as the distinguished Senator from Rhode Island is making crystal clear—and brilliantly so—that finally the Congress of the United States is coming up to date with the Constitution of the United States, and finally coming to the point which the Supreme Court reached 10 years ago?

Mr. PASTORE. Mr. President, in answer to the Senator from Connecticut, it is next to disgraceful for us to be appropriating money to promote, preserve, and maintain a system that the Supreme Court of the United States has said is absolutely unconstitutional.

Mr. RIBICOFF. In other words, we are assuming responsibilities that Congress should have assumed many years ago, and we are finally coming up to date.

Mr. PASTORE. We are assuming the position that we should have assumed when the 13th amendment to the Constitution, which freed the slaves, was ratified.

Mr. RIBICOFF. We are 100 years behind the Constitution.

Mr. PASTORE. Perhaps more. What I am about to read is not my language. It is the language of the Civil Rights Commission, which summarizes some of the effects of discrimination in the disbursement of Federal funds:

In fiscal year 1958, for instance, the amount of Federal funds expended in support of public white institutions, per student enrolled, exceeded the amount expended for public Negro institutions by $130.99 in Alabama, $171.33 in Georgia, $179.50 in Mississippi, and $141.99 in South Carolina.

That is not even "separate but equal." That is separate and unequal—most unequal.

Mr. JOHNSTON. If the Senator will state the percentages given to the schools, he will see that the Negroes in South Carolina received their share, too.

Mr. PASTORE. We can provide that information. I continue to read:

STATE OF SOUTH CAROLINA

Percentage of Federal funds distributed to Negro and white institutions under various educational programs:

Program	Percentage	
	Negro	White
College housing program	0	100.0
National defense fellowships	0	100.0
Counseling and guidance institutes	0	100.0
National Science Foundation	32.1	67.9
National Institutes of Health	0	100.0
Atomic Energy Commission	0	100.0
Student loans, National Defense Education Act	17.4	82.6

Source: U.S. Commission on Civil Rights, 'Equa Protection of the Laws in Public Higher Education" (1963).

I continue to read from the report of the Civil Rights Commission.

The effect of this discrepancy is to contribute to the continuation of inferior segregated institutions and to magnify the disparity between the quality of the public higher education offered to white students and that offered to Negro students in such States.

Mr. President, I ask unanimous consent that an excerpt from page 267 of the report of the U.S. Commission on Civil Rights, entitled, "Equal Protection of the Laws in Public Higher Education, 1960" be printed in the RECORD.

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

U.S. COMMISSION ON CIVIL RIGHTS—EQUAL PROTECTION OF THE LAWS IN PUBLIC HIGHER EDUCATION 1960

The disbursement of Federal funds under these and other programs to segregated

white institutions in the four States maintaining complete segregation at the higher education level increases the disparity between the public financial support of colleges for white students and colleges for Negroes. In fiscal year 1958, for instance, the amount of Federal funds expended in support of public white institutions, per student enrolled, exceeded the amount expended for public Negro institutions by $130.99 in Alabama, $171.33 in Georgia, $179.50 in Mississippi, and $141.89 in South Carolina. The effect of this discrepancy is to contribute to the continuation of inferior segregated institutions and to magnify the disparity between the quality of the public higher education offered to white students and that offered to Negro students in such States. The same situation exists in other States, but, owing to desegregation in some degree of one or more public colleges or universities, the effect on a statewide basis is not so great.

Mr. PASTORE. Let me tell Senators how far matters have gone. A short while ago in Alabama an all-Negro program was instituted. Perhaps consciences are justified by saying it is "all-Negro." But what is the program? The program is in embalming and mortuary science. Yet in the same place they do not have any programs to allow Negro doctors to go into hospitals to treat Negro patients. There is a special program to teach Negroes how to embalm people when they die, but there is no program to enable Negro doctors to go into hospitals to treat Negro patients who want their own doctors when they are ill. I cannot, for the life of me, see how anyone can justify that as being morally right.

Another very important area of discrimination in federally financed programs is employment. Here discrimination is omnipresent, though the form it takes varies with the particular Federal program. Thus, for instance, in the State vocational training programs financed in part by Federal grants, markedly different courses are available to Negroes and whites.

The Commission on Civil Rights reports that vocational training programs in segregated public schools typically train Negroes only for the most menial jobs, requiring the lowest level of skills. But these are precisely the jobs for which the economy has less and less need. White schools, on the other hand, offer training in many of the newer skills in increasing demand today.

Thus, disparity in opportunity is perpetuated; but the Federal Government pays the bill.

The apprenticeship programs which are operated in many unions manifest similar discrimination. Typically, Negroes are excluded from these programs altogether or permitted entry only in the most menial trades. Negro apprentices in trades such as ironworkers, plumbers, steamfitters, electricians, sheet metal workers, cabinetmakers, and so forth, are virtually nonexistent.

While the Bureau of Apprenticeship of the Department of Labor provides no direct financial assistance to these programs, many of them reap the benefits of other Federal financial assistance, such as that for related classrooms and instructors' salaries.

There has also been a past record of discrimination and segregation by the country's largest employment agency, the U.S. Employment Service. The State employment security offices, while financed by the U.S. Government, are administered by the States. In the past, different offices, or different entrances and waiting rooms for a single office have been maintained. According to the 1961 report of the Civil Rights Commission:

In 1958, there were 15 cities in 4 States with physically segregated employment offices, 25 cities had offices with separate entrances and separate personnel to process white and Negro applicants; and in over 70 other cities the offices had either separate waiting rooms or separate service points for the different races. In some areas of the South, where the office is too small to support more than one employee, Negro and white applicants sit on different sides of the interviewer's desk.

In addition to offices segregated by law, there are many offices segregated in fact by being located in all-Negro or white neighborhoods, or because the office specialized in processing jobs customarily barred to Negroes. (1961 Report, U.S. Commission on Civil Rights, Employment, pp. 121–122.)

I ask unanimous consent that a portion of the U.S. Commission on Civil Rights 1961 Report on Employment be printed at this point in the RECORD.

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

U.S. COMMISSION ON CIVIL RIGHTS 1961 REPORT ON EMPLOYMENT

The availability of training in Atlanta presents a different picture. The public schools are still segregated. Moreover, Atlanta has six other public training facilities which accept only whites, and only one that accepts both white and Negro clients for training. Of the 55 private training facilities, 37 accept only whites and 18 only Negroes. As a result of public and private discrimination in admission to training facilities, there is no local training available to Negroes in Atlanta in colleges of business administration, colleges or institutes of technology, art centers, laws schools, schools of comptometry, or schools of pharmacy. Nor can Negroes in Atlanta obtain training as X-ray or medical technicians, medical records librarians, or in specialized airport occupations. The only local training available to Negroes but not to whites in a specializing facility is in embalming and mortuary science.

Mr. PASTORE. Many State employment offices have declined to hire Negroes altogether or have hired them only as janitors and yardmen. The Negro office generally handles only requests for unskilled labor, while the white office handles requests for all types of jobs. Not only are Negroes sent primarily for unskilled jobs but they are also sent out primarily for 1-day jobs, for short-term jobs, which results in their being unemployed again rapidly.

Discriminatory practices of that type are now prohibited by regulations, but affirmative congressional action is needed to insure that discrimination is ended in employment and in other activities which are federally financed.

This then concludes a sketch—and it is nothing more than a sketch—of the most blatant aspects of discrimination in federally financed programs.

From birth to death, in sickness and in want, in school, in job training, in distribution of surplus food, in program staffing, in job referral, in school lunch programs, and in higher education, the Negro has consistently been subjected to gross and extensive deprivation. And the Federal Government has paid the bill.

Now let us see what title VI provides. The first section, section 601, states a broad nondiscrimination principle which is both constitutionally and morally sound. That section provides that no person shall, on account of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. It is difficult to understand how anyone could dispute the basic fairness of this policy.

The next section in title VI, section 602, is an authorization and a direction to the Federal agencies administering a financial assistance program to take action to effectuate the basic principles of nondiscrimination stated in section 601.

I note parenthetically that agencies administering programs which consist of contracts of insurance or guarantee are excluded from the scope of section 602.

However, some of those agencies already have statutory authority to impose nondiscrimination provisions in connection with contracts of insurance or guarantee, and pursuant to Executive order, are now exercising that authority. The Veterans' Administration and the Federal Housing Administration are well-known examples. Title VI is not intended to and does not deprive such agencies of authority they have which may derive from any other source. Consequently, the exclusion of contracts of insurance or guarantee from the direction contained in section 602 will in no way affect the program of nondiscrimination in housing built with federally insured or guaranteed mortgages.

In accordance with the provisions of section 602, each agency affected is rerequired by the term "shall" to take action to eliminate discrimination within the programs under its jurisdiction. By the term "may" each agency is given a certain degree of latitude in the procedure by which it accomplishes the mandate to eliminate discrimination. The agency may take action by or pursuant to rule, regulation, or order of general application.

They are the three categories stated in the act.

Action is mandatory, but the procedure by which that action is accomplished is discretionary, subject, however, to the approval of the President.

Some agencies have already taken action which meets the requirements of section 602. These agencies will be required only to review their past actions to make sure that they effectuate the policy set forth in title VI. Nothing more will be required of them. However, any additional or new action will have to be pursuant to a rule, regulation, or order of general applicability. In this context the word "may" imports a choice only among these three methods. It does not

confer freedom to effectuate section 602 in any other way.

The reason I emphasize it is that this was the question raised by the Senator from Tennessee [Mr. GORE].

Failure of a recipient to comply with a rule, regulation, or order issued by an agency may ultimately lead to a termination or refusal of Federal assistance. Cutoff of assistance is not the object of title VI, however.

I wish to repeat: Cutoff of assistance is not the objective of title VI.

Fund cutoff is a last resort, to be used only if all else fails to achieve the real objective—the elimination of discrimination in the use and receipt of Federal funds.

The rule or regulation issued by the particular Federal agency would vary, depending on the nature and method of administration of the particular assistance program. There might be rules, for example, governing the conduct of recipients of assistance, or orders specifying a standard form of written assurance or understanding to be given by each applicant for assistance, or perhaps a standard provision-of-assistance contract.

One important thing must be kept in mind. Title VI is not a device to terminate all Federal aid to a State or community because there has been discrimination in one specific program. Therefore, the nondiscrimination requirements must relate directly to the particular program or activity against which they are imposed. Participation in one program would not justify the exaction of a nondiscrimination assurance concerning some other program. Similarly, any fund cutoff, or similar action, can be taken only concerning a program or activity in which discrimination has been practiced. Only the program in which discrimination has been practiced would be affected by title VI.

Mr. RIBICOFF. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. RIBICOFF. I believe the Senator makes an important point. One could cut off any other program, and the cutoff would be confined to the jurisdiction where discrimination was found. In other words, if there were 100 school districts and discrimination was found in 1 school district, the funds would be cut off for only that one school district, but not the funds for the other 99.

Mr. PASTORE. The Senator is absolutely correct. It is not the intention of the framers, the sponsors, or the supporters of title VI of H.R. 7152 to enact punitive statutes. We do not wish to be vindictive. We do not wish to be punitive. We do not wish to be unreasonable. So the section provides that when Federal funds are used, they must be used in the American way—in a constitutional manner. That is its purpose.

With reference to the particular cutoff of Federal funds, as the Senator from Connecticut has brought out, it must be confined to the particular program that is involved. Let us assume that we are considering aid to dependent children. We could not cut off funds for the building of a road because that is another program, although it is a Federal grant. The action must be confined to the specific program in which discrimination exists, and then only within the particular jurisdiction where the discrimination takes place. There is no intent, no motive, no idea of spreading the tentacles of the Federal Government to choke off all State activity. Not at all.

Mr. RIBICOFF. What we are seeking to accomplish, as the Senator from Rhode Island has so ably pointed out, is to obtain compliance and eliminate discrimination. We do not wish to use punitive measures against any individual, any State, or any part of any State.

Mr. PASTORE. The Senator is absolutely correct. I shall discuss the procedures that must be followed to effectuate that end.

Mr. RIBICOFF. In other words, great safeguards have been built up even to protect an individual or a jurisdiction?

Mr. PASTORE. Frankly, I do not see how we could have gone any further, to be fair. Without title VI—accepting the fact that the President himself, under Presidential powers, has the right to issue directives, which he already has—such directives are much more stringent than the proposed title VI. Section 602 of title VI not only requires the agency to promulgate rules and regulations but all procedure must be in accord with these rules and regulations. They must have broad scope. They must be national. They must apply to all 50 States. We could not draw one rule to apply to the State of Mississippi, another rule to apply to the State of Alabama, and another rule to apply to the State of Rhode Island. There must be only one rule, to apply to every State.

Further, the President must approve the rule. Then, before there can be a cutoff of Federal funds, there must be a hearing. After the hearing, there may be a judicial review. In the meantime, before the agency can stop the money, it must submit a written report giving all the reasons why it wishes to cut off the money. This report must go to the appropriate committees of the Congress. Thereafter, the cutoff would not take effect for 30 days. If any unfairness existed, one can imagine what the repercussions would be on the floor of the Senate within those 30 days. Talk about a filibuster—it would be a Roman holiday.

Mr. RIBICOFF. More safeguards are provided in title VI than many executive agencies now have or have acted upon in the past; in other words, the rights and privileges of those affected would be fully safeguarded.

Mr. PASTORE. The Senator is absolutely correct.

Mr. STENNIS. Mr. President, before the Senator from Rhode Island returns to his text, will he yield to me for a few questions?

Mr. PASTORE. I am glad to yield to the Senator from Mississippi.

Mr. STENNIS. The Senator addressed himself to the powers in title VI. He was clear in his explanation of the extent of those powers, as he sees it. Will the Senator inform me just what words in title VI confer the power to cut off funds?

Mr. PASTORE. To cut them off?

Mr. STENNIS. Where is the power to cut off funds covered in title VI?

Mr. PASTORE. We start with section 601, which reads:

> Notwithstanding any inconsistent provision of any other law, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 602 provides:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, shall take action to effectuate the provisions of section 601 with respect to such program or activity. Such action may be taken by or pursuant to rule, regulation, or order of general applicability and shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation or order shall become effective unless and until approved by the President. After a hearing, compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding of a failure to comply with such requirement.

It is right there.

Mr. STENNIS. Does the power to cut off the Federal assistance relate only to the agency which is administering the program? How far does it extend? I know the Senator wishes to be helpful.

Mr. PASTORE. This is its extent. Many community schools are controlled by county school districts. Let us assume that in one particular State only one school district has been guilty of discrimination. Aid would be cut off as to that one school district only. In other words, funds could not be used in that particular school district. However, the funds of the other school districts would not be cut off.

Mr. STENNIS. That is a good illustration, but suppose a statewide agency was found to be guilty of discrimination.

Mr. PASTORE. Then all assistance would be cut off.

Mr. STENNIS. In the entire State?

Mr. PASTORE. Yes, if discrimination reached that point, the Senator is correct.

Mr. STENNIS. That would, of course, work an injustice on many people.

Mr. PASTORE. If a statewide agency, as the Senator suggests, is guilty of discrimination, it might well be said that there would be an injury to many people if cutoff is applied. That is the cost of State-sponsored discrimination.

Mr. STENNIS. I ask the Senator if he has any suggestions as to how the situation could be handled so as to apply only to a limited area, where they were not all transgressors?

Mr. PASTORE. That would be quite impossible, if it were a program administered statewide, because, after all, I

assume that the funds would be appropriated on a statewide basis. I do not know how we could particularize in a case like that. I realize that there is a serious problem. It is a problem that we recognize. However, where it is possible and feasible to particularize or fragmentize, the power to do so is in the bill. There might be situations with respect to statewide programs in which that might be difficult. However, that is the reason why there are other safeguards in the bill, as to what must be done before the point of cut off of funds is reached.

Mr. STENNIS. I have one additional question on that point. The section, after all, is rather broad. I refer to line 14 on page 26 of the bill. The only thing that would limit that expression would be the arguments that are made on the Senate floor. I am sure the Senator from Rhode Island wants it to be clear. The language itself is very broad.

In line 18 on page 26 there is the statement:

(2) by any other means authorized by law.

What does the Senator believe that phrase means?

Mr. PASTORE. There is existing law which sets out certain restrictions and certain conditions. This language means that there shall be no repeal of laws which Congress has already enacted.

Mr. STENNIS. Is the only purpose of that phrase to show that there is no repeal of existing law?

Mr. PASTORE. Yes. I except, of course, the "separate but equal" laws. It is clear that when there is a condition in the law that permits separate but equal accommodations— as in the case of Hill-Burton funds—such a provision is repealed.

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

Mr. PASTORE. I yield.

Mr. RIBICOFF. By way of further amplification of the question raised by the distinguished Senator from Mississippi, may I ask the distinguished Senator from Rhode Island whether it is not correct to say that if a State was administering a program and there was discrimination in one part of that program, under appropriate rules and regulations it would be possible to disallow the expenses and the allotment that would go to that section of the program where the discrimination was taking place, but to allow the expenses and allotments to areas where there was no discrimination.

Mr. PASTORE. Under the broadness of the statute, that would be correct. It would depend upon the rule or regulation in that case.

Mr. RIBICOFF. That is correct.

Mr. PASTORE. The Senator from Mississippi was referring to a statewide program.

Mr. RIBICOFF. But even with a statewide program, funds used in a nondiscriminatory way need not be disallowed.

Of course, the easiest answer would be for the State, which has control of the program, to make it unnecessary to cut off any funds simply by complying and not discriminating.

Mr. PASTORE. For example, it is the purpose of the Agriculture Adjustment Act in authorizing benefit payments to producers of agricultural commodities to "establish and maintain orderly marketing conditions for agricultural commodities in interstate commerce"—7 United States Code 602.

Congress was not concerned, in that act, with extending assistance to farm labor. As applied to this program, therefore, while title VI would authorize the imposition of a requirement, to preclude racial discrimination in the payment of benefit payments to farmers, it would not authorize any requirement or action affecting employment policies of such farmers. It is therefore false to view title VI—as some of its critics have claimed—as a device for regulating employment on the farms of this country.

Let me now turn to the procedures required by the title as a prerequisite to any action by any agency of Government. These procedures are spelled out in considerable detail in the bill. Indeed, there is an emphasis on safeguards against precipitious action.

At this juncture we should emphasize what we shall repeat again and again—the aim of title VI is to end discrimination in Federal programs. Only as a last resort would title VI seek to terminate Federal assistance.

Before any formal compliance action may be taken, the agency must advise the offending party of his failure to comply and must seek to obtain compliance by voluntary means. This is a positive requirement in the law which must be met before any further action can be taken. If voluntary means fail, then the agency has a choice. On the one hand, it can terminate the grant, loan, or contract, refuse further payment under it, refuse to make a new grant or loan, or refuse to enter into a new contract.

Alternatively, the agency may use "any other means authorized by law." This phrase does not confer any new authority. It simply makes it clear that Federal departments and agencies may carry out the purposes of title VI by using the powers they now have under the laws creating them or authorizing particular assistance programs.

This alternative is designed to permit the agency to avoid a fund cutoff if some other means of ending discrimination is available. This will enable the agency to achieve compliance without jeopardizing, even in limited fashion, its basic program objective by terminating or refusing aid. Perhaps the best example of this relates to school lunches or other assistance to segregated schools. Cutoff of the lunches or other assistance will obviously impose a severe hardship upon students who are intended to be benefited. The way to avoid such a hardship will be for the Attorney General to institute a desegregation suit under title IV, rather than to terminate the assistance.

Again, if an agency's nondiscrimination requirement is embodied in a contractual commitment, the agency may be able to bring suit to enforce its contract. An agency with power to approve or disapprove construction plans or standards could refuse to approve for aid any facilities which would be segregated.

Any such action, however, would have to be based on powers conferred on the agency by some other law than title VI. But, as I have said, the basic point is that title VI is designed to end discrimination in Federal programs—not to terminate Federal assistance except as a last resort.

There are some other procedural safeguards. Action under section 602 is not possible until there has been a hearing. The degree of formality of the hearing would, of course, depend both on the nature of the particular program and the nature of the proposed compliance action. For example, if the proposed action is to refer the matter to the Attorney General for institution of a suit, the requirement of a hearing would be satisfied by an informal conference at which the noncomplying party was advised of the proposed referral, and given a further opportunity to avoid litigation by voluntary agreement to comply. On the other hand, if the proposed compliance action is to terminate or withhold payments under an approved grant, the hearing would have to enable the recipient of the funds to challenge the agency's evidence, and to present his own evidence on the issue of compliance. A written record would have to be made which could serve as an adequate basis for judicial review.

I call attention to the fact that the provision for hearing was added by amendment from the floor of the House. The House debate makes it clear that this was indeed the primary purpose of adding the hearing provision.

It was to insure that a complete written record would be available for purposes of judicial review in those cases which would be subject to such review under section 603.

Section 602 contains further safeguards against arbitrary action. Thus, if an agency proposes to terminate or to refuse to make a grant, loan, or assistance contract, it must file a full written report of the circumstances and the grounds for such action with the committees of the House and Senate having legislative jurisdiction over the program or activity involved. No cutoff of funds can become effective until 30 days have elapsed after the filing of such a report. This provision provides further incentive to voluntary compliance. Presumably, while the matter is pending before the congressional committees involved, there will be further opportunity to end the discrimination without the necessity of cutting off Federal funds or in other ways curtailing the particular assistance program in question.

Additional safeguards against arbitrary action are provided in section 603. Under that section any agency action taken pursuant to section 602 would be subject to judicial review to the extent and in the manner provided by existing law applicable to similar action taken by the agency on other grounds. Thus, where special statutory review procedures are available under certain statutes, those procedures should be followed.

For example, Public Law 815 and the Hill-Burton Act—20 United States Code

641(b), 42 United States Code 291(j)—provide for special review procedures for denial of a grant and for withholding of funds thereunder. The same procedures would be followed under title VI. If no review is provided by existing law, agency action cutting off financial assistance would be subject to judicial review in "any applicable form of legal action" as authorized by the Administrative Procedure Act, 5 United States Code 1009. What that means in practical terms is that a suit for injunction or declaratory judgment could be brought in the U.S. District Court. Under recent amendment to the Judicial Code, the suit could be maintained either in the district where the plaintiff resides or where the cause of action arose—20 United States Code supplement 1963 1391(e). If the agency's finding was not supported by substantial evidence, or if its action was otherwise arbitrary, capricious, or contrary to law, the court could set the action aside. Furthermore, the court could grant relief pending review to avoid irreparable injury.

I have dwelt at some length on the detailed procedural safeguards contained in title VI because I think this feature of the bill has been widely misunderstood. Title VI does not vest arbitrary or dictatorial powers in Federal agencies. Actually, it is a moderate provision, carefully tailored to the objective of getting the Federal Government out of the business of subsidizing discrimination.

It is designed to achieve that objective in a manner which puts a premium on voluntary action and is as procedurally fair as it could possibly be. Let me consider now some of the reasons why I think title VI is necessary.

Title VI is necessary to end any confusion as to the survival of "separate but equal" conditions which have been declared unconstitutional. It is needed to confirm and clarify antidiscrimination directives of the President and individual agencies. While it is believed that they have acted within adequate authority, title VI would support them with statutory approval.

Title VI would avoid the reccurence of acrimonious debate in the Congress as to discrimination in discussing individual Federal aid programs.

Time and time again such proposed legislation has come before this body. Amendments have been sponsored to make clear in a particular program that separate but equal provisions would not do.

The distinguished Senator from Michigan [Mr. HART] once became somewhat irked at the traditional motion to lay on the table. The argument that is customarily made is that if the provision prevailed, the Senate might become involved in prolonged or protracted debate, or even a filibuster, and the result might be no legislation whatever.

It is to avoid such a situation that title VI would constitute as permanent policy of the U.S. Government the principle that discrimination will not be tolerated. This would eliminate all the confusion and discussion that arise every time a grant bill comes before the Senate.

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

Mr. PASTORE. I yield.

Mr. HART. In my opinion, the point the Senator makes is overwhelmingly persuasive to those who have shared this concern. We ought not to blink the fact that there may be occasions when the extreme and distasteful decision will have to be made, notwithstanding the enactment of title VI, that will result in the shutting off of an entire State's flow of money.

The Senator from Rhode Island may recall that the problem many of us have had, as proposals are made to amend a particular grant or aid program, is really a conflict of principle. If it is a program that would support education at State and local levels, the argument is very persuasive that education will result in the elimination of discrimination; and what principle could possibly justify withholding action which might raise the level of educational opportunity anywhere in the country? Therefore, it is said we should not vote for so-called Powell amendments.

There is another principle involved. The Senator from Rhode Island has voiced it eloquently. It is this: The money comes from everyone. How can we possibly justify spending money to create a program or establish a facility, admission to which is denied to some people?

Mr. PASTORE. People who are paying for it.

Mr. HART. People who are paying for it. I had reached the conclusion that the latter principle has higher priority. But admittedly it is not an easy decision. The point I should like to make is that if title VI is enacted, we will avoid, as the Senator has said, the difficult, perennial debate or decision, but we might not avoid, in some isolated cases, the withholding of funds across a whole State merely because some isolated corner of the State refused to comply.

If at the end of all the effort, at the end of all the procedural steps that the Senator from Rhode Island has outlined, there were a hard core of resistance, and if the grant were to the State itself, I would suspect that the administrator of the program again would be faced with the ultimate and difficult decision, which we now propose to make a matter of law; namely, that if it is a State grant, and there is one corner of the State where refusal to apply the moneys nondiscriminatorily continues, withholding nonetheless will occur. But the decision would be made across the board, without any particular State involved, without any particular program involved, and would represent the adoption by Congress of what I have felt to be the higher principle; namely, that we do not take money from everybody to build something, admission to which is denied to some.

Mr. PASTORE. That point was covered very ably by the distinguished Senator from Connecticut. A situation might occur in which there might be a hard core, pinpoint condition in a State which could not possibly be tolerated, but the situation in the remainder of the State might be good; the program in the remainder of the State might be administered on a nondiscriminatory basis. However, as the Senator from Connecticut said, not only could the rules and regulations that are promulgated by a nondiscriminatory agency cover that kind of situation, but I suppose that once title VI was enacted, in that particular case it would still be proper for the Attorney General under other titles of this bill, if he were asked to do so, to step in. He might go before the court and obtain some kind of injunctive relief or some kind of mandatory relief which would compel compliance subject to a citation for contempt of court. We would not have to cut off assistance to 100 people because 1 person was being discriminatory in the administration of the money.

Once the policy is set, there are many, many ways in which intervention could be had, so as not to do an injustice to a great multitude because of the instance of only one offender.

We ought to make that very clear in the history we are making here today. We are not seeking to penalize people by way of pressure and saying that we can cure this one case if we twist the arms of 99 people. That is not the purpose of the section. We are not trying to bring compliance through pressure. We are trying to bring voluntary compliance. We are leaving the law broad enough with the provision of rules and regulations with other general means so that there can be a promulgation of rules to take care of the situations that have been mentioned by the distinguished Senator from Michigan and the distinguished Senator from Connecticut.

I thank them for their interest. I think it is very important to make this point. This is not strangulation legislation. We want to make that clear. We are not trying to strangle Federal programs. We are not trying to cut off funds from States. All we are saying is that there is a duty on the part of the Government to see to it that all of our citizens are treated in conformity with the inscription on the wall above the doorway: "E Pluribus Unum." We want unity. Equity begets unity. We want one and the same treatment for all.

Mr. RIBICOFF. Mr. President, will the distinguished Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. RIBICOFF. With respect to the language on page 26, section 602, subsection (2), the distinguished Senator from Mississippi raised the question, "What is meant by the phrase 'or by any other means authorized by law'?"

It is important to emphasize, as the distinguished Senator from Rhode Island has just stated, that this phrase has significance and meaning. Without this phrase, there would only be the remedy of a cutoff of funds. But the words "by any other means authorized by law" give flexibility to permit the agency or the department of the Government to use alternative remedies, under the regulations, just as the distinguished Senator from Rhode Island has pointed out.

Mr. PASTORE. I thank the Senator from Connecticut.

Title VI is necessary, first of all, because the Federal Government simply

cannot be expected to continue to pay out tax dollars contributed by all the people to just some of them and to exclude others because of the color of their skin. As I shall develop, there are some statutes now on the books which contemplate Federal assistance to racially segregated institutions.

For example, the Hill-Burton Act which provides for grants for hospital construction, the second Morrill Act which provides for grants to land-grant colleges, and Public Law 815 which authorizes grants for school construction in federally "impacted areas," all contain clauses authorizing—directly or by implication—that Federal aid be furnished under the obsolete separate-but-equal formula. But the Court has already declared that to be unconstitutional.

I ask unanimous consent that excerpts from these two acts to be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

PROVISIONS OF EXISTING FEDERAL ASSISTANCE STATUTES RELATING TO RACIAL DISCRIMINATION

The Hill-Burton Act of August 13, 1946 (60 Stat. 1041; 42 U.S.C. 291 et seq.), authorizes construction grants for public and non-profit hospitals. Section 622(f), 42 United States Code 291e(f), provides that the Surgeon General shall by regulation prescribe, inter alia:

"That the State plan shall provide for adequate hospital facilities for the people residing in a State, without discrimination on account of race, creed, or color. * * * Such regulation may require that before approval of any application for a hospital or addition to a hospital is recommended by a State agency, assurance shall be received by the State from the applicant that (1) such hospital or addition to a hospital will be made available to all persons residing in the territorial area of the applicant, without discrimination on account of race, creed, or color, but an exception shall be made in cases where separate hospital facilities are provided for separate population groups, if the plan makes equitable provision on the basis of need for facilities and services of like quality for each such group."[1]

The Second Morrill Act of August 30, 1890 (26 Stat. 418, 7 U.S.C. 321 et seq.), provides for annual grants to land-grant colleges. Section 1, 7 United States Code 323, provides in part:

"No money shall be paid out under sections 321–326 and 328 of this title to any State or Territory for the support or maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said sections if the funds received in such State or Territory be equitably divided as hereinafter set forth."

Public Law 815 of September 23, 1950 (64 Stat. 973 (reenacted as permanent legislation by the Act of August 12, 1958, 72 Stat. 551) 20 U.S.C. 631 et seq.), provides for grants for school construction in federally impacted areas. Section 205(b)(1)(f) of the 1950 act (Sec. 6(b)(1)(f) of the 1958 act), 20 U.S.C. 636 (b)(1)(f), provides that each application for grant shall include—

"Assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this chapter on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district;".

Mr. PASTORE. Mr. President, as I have already noted, the separate-but-equal provision of the Hill-Burton Act was involved in litigation before the Court of Appeals for the Fourth Circuit and that court held that the provision was unconstitutional. The court enjoined hospitals involved upon excluding Negro patients and doctors. There has also been litigation involving Public Law 815. There, the Court of Appeals for the Fifth Circuit dismissed suits by the United States to enjoin pupil segregation at schools which received Public Law 815 funds, *United States* v. *Madison County Board of Education*, 326 F. 2d 237.

Enactment of title VI would eliminate that kind of confusion and override all such separate-but-equal provisions for the future regardless of the ultimate outcome of the pending litigation.

It is, of course, by no means true that in all instances payments to segregated institutions are required by positive command of present law.

Actually—and I want this to be well understood—in many respects title VI would merely clarify and support authority which now exists. For example, President Kennedy issued Executive Order No. 11063—November 20, 1962, F.R. 11527—which requires the appropriate agencies to "take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin" in the sale, lease, rental disposition, use or occupancy of housing which is provided in whole or in part with the aid of Federal grants, loans, contributions, guarantees, or insurance.

Similarly racial discrimination in employment on construction in the programs supported by Federal financial assistance is prohibited by Executive Order No. 11114—June 25, 1963, 28 F.R. 6485.

Individual agencies have also taken action to preclude racial discrimination in connection with assistance programs administered by them. For example, the regulations of the Department of Agriculture prohibit schools or other institutions receiving donated agricultural commodities from discriminating against any person receiving food because of his race, creed, or color—6 CFR, section 503.8 (a) and (b).

Mr. President, title VI would serve to provide express statutory approval for this kind of action taken by the executive branch. The executive officers, from the President on down, are sworn to uphold the Constitution. They must see to it that the laws are faithfully executed. Certainly such officers must not engage in any conduct which they believe to be unconstitutional.

In many instances, existing Federal programs have been interpreted by the agencies administering those programs to preclude discrimination. While the executive branch is believed in most cases to have adequate authority to preclude discrimination or segregation by recipients of Federal assistance, enactment of title VI would clarify and confirm that authority. It would require agencies to act to eliminate racial discrimination, rather than to leave the matter, as now, to individual agency discretion. It would give the nondiscrimination policy express statutory sanction, and thus would tend to insure that the policy would be continued in future years as a permanent part of our national policy.

Another advantage of enactment of title VI would be to remove from the area of legislative debate the question of nondiscrimination every time a Federal assistance program is under consideration by Congress. Repeatedly, in recent years, nondiscrimination amendments have been proposed in Congress to bills providing for, or extending, Federal assistance to education, housing, and other matters. Such amendments have often been opposed by some Members of Congress who favored the principle of nondiscrimination, but feared that to raise the issue of discrimination in the particular legislative context might well result in the defeat of the particular bill.

Title VI enables the Congress to consider the overall issue of racial discrimination separately from the issue of desirability of any particular Federal assistance program. The enactment of this title would avoid for the future the occasion for legislative dilemmas of the type described above. It would also avoid any basis for argument that the failure of Congress to adopt such nondiscrimination amendments in connection with the particular program implied congressional approval of racial discrimination in that program.

Speaking of congressional debate, I should now like to consider a number of objections which have been offered to title VI.

In the House, a concerted attack was made on title VI as "punitive" or "vindictive." These charges are undeserved. These characterizations appear to result from the belief that title VI is intended to deny the South the benefit of social-welfare programs—that it would punish entire States for any act of discrimination committed within them. This argument merely befogs the issues. It ignores both the purpose of title VI and all of the limitations that have carefully been written into its language.

As is clear, the purpose of title VI is to make sure that funds of the United States are not used to support racial discrimination. In many instances, the practices of segregation and discrimination, which title VI seeks to end, are unconstitutional.

This is clearly so wherever Federal funds go to a State agency which engages in racial discrimination. It may also be so where Federal funds go to support private, segregated institutions, as the decision in the Simkins case teaches. In all cases, racial discrimination is contrary to the national policy and to the moral sensibilities of the people of this Nation. Thus, title VI is simply designed to insure that Federal funds are spent in accordance with the Constitution and our public policy.

[1] The provision beginning "but an exception" was held invalid and severable in *Simkins* v. *Moses H. Cone Hospital* (C.A. 4, No. 8908) decided November 1, 1963.

Speaking of private institutions, the original draft of title VI referred to religious discrimination. Since there is no history of discrimination on the basis of religion in the administration of Federal aid programs, the reference was eliminated—and wisely so, I believe.

Moreover, as cannot be too often emphasized, the purpose of title VI is not to cut off funds, but to end racial discrimination. This requirement is reflected throughout the act. It is reflected in section 602, which provides that any action taken by the Federal department or agency must be "consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken." As a general rule, cutoff of funds would not be consistent with the objective of the Federal assistance statutes if other effective means of ending discrimination are available.

Section 602, by authorizing the agency to achieve compliance "by any other means authorized by law," encourages agencies to find ways to end discrimination without refusing or terminating assistance. These careful safeguards certainly demonstrate that the proposed statute is not intended to be vindictive or punitive.

Nor does title VI vest any broad authority to cut off all Federal aid to a State just because there are instances of discrimination within that State. Any nondiscrimination requirement an agency adopts must be supportable as tending to end racial discrimination with respect to the particular program or activity to which it applies. Funds can be cut off only on an express finding that the particular recipient has failed to comply with that requirement. Thus, title VI does not authorize any cutoff or limitation of highway funds, for example, by reasons of school segregation.

Nor does it authorize the cutoff or other compliance action on a statewide basis merely because there is discrimination in a particular program. For example, in the case of grants to impacted area schools, separate compliance action would have to be taken with respect to each school district receiving a grant.

There is, finally, one additional feature of title VI which demonstrates beyond doubt that it is not intended to be vindictive or punitive. I am referring to the fact that the authority contained in the title to cut off funds is hedged about with a number of procedural restrictions and requirements. These would hardly be necessary or appropriate if the bill were designed as a punitive or vindictive measure. These restrictions have already been briefly described but let me here again summarize what must be done before funds can be cut off. The following would have to occur:

First. The agency must first adopt a general nondiscrimination rule, regulation, or order.

Second. The President must give his approval.

Third. The agency must seek to secure compliance by voluntary means.

Fourth. A hearing must be held before any formal compliance action is taken.

Fifth. The agency may, and in many cases will, seek to secure compliance by means not involving a cutoff of funds.

Sixth. If the agency determines that a refusal or termination of funds is appropriate, it must make an express finding that the particular person from whom funds are to be cut off is still discriminating.

Seventh. The agency must file a written report with the appropriate congressional committee and 30 days must elapse before further action can be taken.

Eighth. The aid recipient can obtain judicial review and may apply for a stay pending such review.

Let me recount those eight safeguards to show that action under title VI is neither precipitous nor punitive.

Certainly, a piece of legislation that contains this multitude of protections cannot be said to be arbitrary, vindictive, or punitive.

Another objection that has been lodged against title VI is that it would give to the executive branch broad and sweeping powers that it has not heretofore known. This is totally inaccurate. Most Federal agencies extending assistance now have authority to refuse or terminate assistance for failure to comply with a variety of requirements imposed by statute or by administrative action. The difference is that this existing statutory authority is not surrounded by the procedural safeguards provided for in title VI.

For example, the Hill-Burton Act provides that an application for a grant for hospital construction must meet a number of requirements, and if the application fails to meet any of them, the Surgeon General may simply disapprove.

In case of disapproval, the State agency involved in hospital control is entitled to a hearing prior to final disapproval; the hospital applying for a grant is not (42 U.S.C. 291(h)). Likewise, the State agency can obtain judicial review (42 U.S.C. 291(j)).

After a grant-in-aid under the Hill-Burton Act has been approved, the Surgeon General may terminate payments if he makes any one of a number of findings. Again, the State has a right to judicial review (42 U.S.C. 291(j)).

How would title VI affect this procedure? It would, of course, have the effect of a repeal of the substantive provision which authorizes payments for separate-but-equal facilities—a provision which the court of appeals has already held unconstitutional. Thus, there would be no new authority to refuse a grant or terminate payments thereunder. But title VI would first afford the hospital, in addition to the State, a hearing in connection with a refusal or termination of a grant and judicial review under the Hill-Burton Act would, of course, continue to be available; second, require a report of any such refusal or termination to be made to Congress; third, require efforts to achieve voluntary compliance; and fourth, require Presidential approval of the Surgeon General's regulations relating to nondiscrimination.

There are numerous other Federal statutes that are similar in these respects to the Hill-Burton Act. This is true, for example, of the School Construction Act—Public Law 815—and the Library Services Act of 1956 (20 U.S.C. 351).

In most statutes of this type, considerable discretion is lodged in the administrator. When title VI is compared with these enactments, it is evident that the kind and degree of discretion granted here is far narrower and more carefully limited by procedural safeguards than that which Congress has frequently provided in other Federal assistance statutes.

There is another objection to title VI which has been advanced which is designed to foster public fear. It is alleged that title VI will interfere with private business. But title VI is not intended to regulate business. It is merely an exercise of an unquestioned power of the Federal Government. Under Federal assistance programs, the Federal Government is giving something away. Clearly, it should be able to fix the conditions under which money and goods are distributed. In fact, the Supreme Court has confirmed this power in the case of *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127, 143 (1947), where the Court said that the Federal Government may "fix the terms on which—Federal funds—shall be disbursed."

No one is required to accept Federal assistance or Federal funds. If anyone does so voluntarily he must take it on the conditions on which it is offered. Certainly no one can claim that it is arbitrary for the Federal Government to insist that its funds not be put to a use which is unconstitutional or contrary to public policy.

A California court put it graphically but accurately when it said:

> When one dips one's hands into the Federal Treasury, a little democracy clings to whatever is withdrawn, *Ming* v. *Horgan*, 3 R.R.L.R. 693, Superior Court, Sacramento 1958.

The basic fairness of title VI is so clear that I find it difficult to understand why it should create any opposition. When new Federal programs are devised or when Congress is concerned with the appropriation of Federal funds, there is always a clamor to insure that no funds be expended unless adequate safeguards are adopted to prevent their improper use. Certainly, if—to use again the Hill-Burton Act as an example—the Surgeon General can say that he will not authorize money for a particular hospital unless that hospital has a particular type of lavatory facility or a particular type of kitchen, it is hard to believe that private rights are being infringed if the hospital is also that it must serve all of the people in the community without regard to the color of the skin. It seems to me that Congress should be at least as concerned with the latter as with the former.

The principles of our Government are an example for the entire world. This country knows no castes and no classes. The tenet of the Declaration of Independence that all men are created equal has its counterpart in the constitutional

directive that all are entitled to the equal protection of the laws.

With each passing year, our practices approach more clearly our ideals.

Private prejudices, to be sure, cannot be eliminated overnight. However, there is one area where no room at all exists for private prejudices. That is the area of governmental conduct. As the first Mr. Justice Harlan said in his prophetic dissenting opinion in *Plessy* v. *Ferguson*, 163 U.S. 537, 559:

Our Constitution is colorblind.

So—I say to Senators—must be our Government.

The enactment of title VI will insure for all time that the financial resources of this Government will play no part in subsidizing racial discrimination. That part of the bill is right legally; it is right constitutionally; and it is right morally.

Title VI is right—yet it is restrained—almost reluctant to use its powers—not vindictive but seeking voluntary compliance for the common good of all our people.

Title VI closes the gap between our purposes as a democracy and our prejudices as individuals. The cuts of prejudice need healing. The costs of prejudice need understanding. We cannot have hostility between two great parts of our people without tragic loss in our human values—without deep damage to our national decency and dignity—without threat to our manifest destiny in a world we have to accept for what it is—a world which has to accept us for what we are or aim to be.

Title VI offers a place for the meeting of our minds as to Federal money. It can recognize no prejudice. It affords a place for the meeting of our hearts, as prejudice must yield to our common purposes, our common progress, and the common perfection of these United States.

Our conscience as a nation—our consciousness that the world is looking at our deeds as well as listening to our words—our commonsense as neighbors in a democracy that deserves to survive—all these commend title VI and command us to enact it as a vital part of a real civil rights bill.

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

Mr. PASTORE. I yield.

Mr. HART. I would hope that every American concerned about the charges that are made with respect to the reach and scope of the pending bill would carefully read the brilliant remarks of the Senator from Rhode Island. I would go out on a limb which is not very long and which is pretty solid. There are few Americans who in broad daylight would argue that the Federal Government should subsidize discrimination. That is what title VI is all about. No Senator could have put the case more eloquently and persuasively than has the Senator from Rhode Island. That is my reaction to a wonderful speech.

Mr. PASTORE. I thank the Senator.

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

Mr. PASTORE. I yield to the Senator from Delaware.

Mr. BOGGS. I wish to make only a brief comment. I always enjoy listening to the distinguished senior Senator from Rhode Island, but I have especially appreciated the opportunity to listen to his address on title VI of the pending legislation. It is an outstandingly able and valuable contribution to the legislative history of this title and the proposed legislation, and I thank him for it.

Mr. PASTORE. I thank the Senator from Delaware.

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

Mr. PASTORE. I yield to my colleague from Rhode Island.

Mr. PELL. I rise to congratulate my senior colleague on his eloquent and excellent speech, and also to ask him one question in connection with it.

Is it not true that the philosophy of title VI is already in the law? The authority is permissive. Title VI would merely extend it, but would not bring in a new concept. Is that correct?

Mr. PASTORE. The Senator is correct.

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

Mr. PASTORE. I yield to the Senator from Connecticut.

Mr. RIBICOFF. I commend the Senator from Rhode Island for a brilliant presentation of title VI. I believe the distinguished Senator from Rhode Island has done a great public service to the Senate and the country.

I deem it a decided privilege to be able to follow the Senator from Rhode Island in further explanation of title VI.

Mr. PASTORE. I thank the Senator.

Mr. President, I yield the floor.

Mr. RIBICOFF, Mr. HART, and Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER (Mr. INOUYE in the chair). The Chair recognizes the Senator from Connecticut.

Does the Senator from Connecticut yield?

Mr. HART. Mr. President, my intention was to ask that the Senator from Connecticut yield to me for the purpose of suggesting the absence of a quorum, on condition that he would be recognized at the conclusion thereof.

Mr. RIBICOFF. Mr. President, I yield, provided I do not lose the right to the floor.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. HART. 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. 119 Leg.]

Aiken	Cotton	Johnston
Allott	Curtis	Jordan, Idaho
Anderson	Dirksen	Keating
Bartlett	Dominick	Kennedy
Bayh	Douglas	Kuchel
Beall	Fong	Lausche
Bible	Gore	Long, Mo.
Boggs	Hart	Magnuson
Brewster	Hickenlooper	Mansfield
Burdick	Holland	McGovern
Cannon	Hruska	McIntyre
Carlson	Humphrey	McNamara
Case	Inouye	Mechem
Church	Jackson	Metcalf
Clark	Javits	Miller
Monroney	Pell	Symington
Morton	Proxmire	Talmadge
Mundt	Ribicoff	Tower
Muskie	Robertson	Walters
Nelson	Saltonstall	Williams, Del.
Neuberger	Scott	Yarborough
Pastore	Smith	Young, Ohio
Pearson	Stennis	

The PRESIDING OFFICER. A quorum is present.

Mr. RIBICOFF. Mr. President, of all the provisions of this civil rights bill, none rests on so simple and so sound a principle as does title VI. That principle is taxpayers' money, which is collected without discrimination, shall be spent without discrimination.

This principle requires no argument. It is based on simple justice. It is based on ordinary decency. It is consistent with, if not required by the U.S. Constitution.

In fact, the principle of nondiscrimination in the use of Federal funds is so undeniably sound that to my knowledge there has not been one word said in opposition to this principle during the debate on this bill. Some opponents of this bill have frankly expressed their view, in discussing other titles of the bill, that there is a question in their minds as to whether Negroes should have the right to go to public schools on the same basis as whites, or whether Negroes should have the right to enter places of public accommodation on the same basis as whites, or even whether Negroes should have the right to vote on the same basis as whites. But however ill-founded those views may be—and I deeply believe they are wrong as a matter of law and of morality—I have heard no opponent express the slightest doubt as to whether Negroes should participate in the benefits of federally aided programs on the same basis as whites. If such a point of view exists, I would like to hear it expressed. I would be glad to yield at this point to any opponent of this bill who cares to contend that discrimination in federally aided programs is justified. I have heard no such argument nor do I expect to, for this is a principle on which 100 Senators and indeed every American can and do readily agree.

So unlike other titles in this bill, title VI seeks to protect a right that is universally recognized as being entitled to protection. The only issue is whether there is a need to protect the right and whether the remedies of title VI are reasonable and appropriate.

The need can be demonstrated conclusively. The fact is that discrimination does exist in federally aided programs. This result has been permitted, and until recently required, by Federal statutes such as the Hill-Burton Act for hospital construction, the Morrill Act for land-grant colleges, and Public Law 874 for construction of schools in federally impacted areas. In fiscal year 1962 more than $13 million of Federal funds was spent to build and operate impacted area schools in 3 States that have 100-percent school segregation. Millions more have gone to school districts in other States that are completely segregated. Since 1946, $32 million of Federal funds was used to build 76 medical facilities that admit no Negroes. Racial discrimination has occurred in programs

administered by the Labor Department, by the Agriculture Department, and by other agencies of the Federal Government.

These facts are not in dispute. So again, as with the basic principle involved, we find no serious denial of the fact that the right to participate in federally aided programs without discrimination is not now adequately protected.

We come then to the crux of the dispute—how this right should be protected. And even this issue becomes clear upon the most elementary analysis. If Federal funds are to be dispensed on a nondiscriminatory basis, the only possible remedies must fall into one of two categories: First, action to end discrimination; or second, action to end the payment of funds. Obviously action to end discrimination is preferable since that reaches the objective of extending the funds on a nondiscriminatory basis. But if the discrimination persists and cannot be effectively terminated, how else can the principle of nondiscrimination be vindicated except by nonpayment of funds?

Title VI follows this twofold approach. It places primary emphasis on ending discriminations. It provides withholding of funds as a last resort.

Let me briefly indicate the development of this title and its detailed operation. The need to end discrimination in federally aided programs has long been recognized. Efforts to reach this goal have been initiated in both the executive and legislative branches. In my own experience in the Department of Health, Education, and Welfare, this was one of the first problems to which I turned my attention as Secretary. I examined all of the programs within my jurisdiction to see whether discriminations were occurring and what could be done to eliminate them. In some instances I found I had authority to act and did so. For example, I ruled that summer teacher training institutes financed under the National Defense Education Act would not be located at any college or university that declined to operate such institutes without discrimination. I also ruled that segregated education was not "suitable" within the meaning of the impacted area statutes and that HEW would no longer finance the segregated education of children of parents living on military bases, but instead would provide desegregated, on-base educational facilities.

With other programs, however, I found my authority to act was questionable, and in some instances I was limited by the explicit wording of congressional enactments. It became clear to me that administrative action alone could not solve the entire problem. Judicial action could be helpful and I sought to secure this help. HEW worked closely with the Department of Justice to support litigation to declare unconstitutional the separate but equal provision of the Hill-Burton Act and to initiate suits to desegregate impacted area schools attended by off-base children. The Hill-Burton suit resulted in a clear ruling calling for an end to discrimination in this program. *Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F. 2d 959, certiorari denied, March 2, 1964. The impacted area schools litigation is still pending before the Court of Appeals for the Fifth Circuit, although a favorable ruling has been made by a district court in the fourth circuit.

But it was readily apparent that beyond these steps there was a clear need for legislative action and I urged such action in testimony before Congress 2 years ago. Many Senators and Congressmen also have been insistent in their demands for legislation. Some proposals have taken the form of amendments to specific bills authorizing new programs or to appropriation bills continuing existing programs. These amendments have been rejected primarily on the ground that the ending of discrimination in federally aided programs should be accomplished by across-the-board legislation.

With the presentation of the administration's civil rights bill last year, the opportunity was at hand to accomplish this long-sought objective. As initially proposed, title VI was not adequate to meet the problem. The first version of it simply overrode statutory requirements of discrimination, but left administrators with neither the requirement to end discriminations nor the procedural safeguards that should surround any action they might take.

Shortly after the original bill was introduced, the junior Senator from New York and I each introduced our own amendments to remedy these shortcomings in title VI. Thereafter we combined our proposals into a substitute for title VI which we introduced on August 20—CONGRESSIONAL RECORD, volume 109, part 11, page 15375. The junior Senator from New York and I wanted to be sure that administrators of Federal programs were under an obligation to take action to end discrimination in the programs under their jurisdiction. We wanted to be sure they had a choice of remedies, with cutoff of funds to be used only as a last resort. Finally, we wanted to be sure that proper procedures, including judicial review, were followed. On August 23, the Attorney General, appearing before the Senate Judiciary Committee, presented a revision of title VI, that greatly improved the original administration proposal along the lines recommended by Senator KEATING and myself. That revised title, with several helpful amendments adopted by the House of Representatives, has become title VI of the pending bill.

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

Mr. RIBICOFF. I yield, provided I do not lose the floor.

Mr. KEATING. I appreciate the reference to the work which the distinguished Senator from Connecticut and I have done with regard to this particular title of the bill. It is a distinctly helpful part of legislative history to clarify the background of the present title VI.

First, I express my thanks for the very great and fine work which the Senator from Connecticut has done in this field. As he knows, nondiscrimination in the distribution of Federal funds has been a subject of interest to the junior Senator from New York since the days when the Senator from Connecticut was Secretary of Health, Education, and Welfare. During that time we had many conferences on this subject. Since coming to the Senate, Senator RIBICOFF has taken the leadership in seeking to strengthen the principle that Federal money should be fairly distributed when the tax collector comes along and takes money from the pocket or the pay envelope of everyone. He does not ask a person's religion or race. He collects from everybody. But when he turns those funds over to an institution or a federally aided facility which denies its benefits to some of our citizens, that is immoral and illegal.

As the Senator from Connecticut has well said, I, like him, have heard no Senator say that steps should not be taken to prevent that sort of thing from happening. Differences may arise as to what steps should be taken, but the situation demands immediate attention.

As Senator RIBICOFF has pointed out, both he and I felt that the original title VI proposal was objectionable in that it emphasized the cutting off of Federal funds rather than the ending of discrimination. We favored a provision allowing the administrator to institute a civil action to eliminate the discrimination, and we favored judicial review of the determination to withhold Federal funds.

Parenthetically, while we favored the inclusion of the right to sue on the part of the agency, the State, or the facility which was deprived of Federal funds, we also favored the inclusion of a provision granting the right to sue to the person suffering from discrimination. This was not included in the bill. However, both the Senator from Connecticut and I are grateful that our other suggestions were adopted by the Justice Department.

The distinguished Senator from Connecticut has worked with diligence on this problem. He is experienced both as an administrator and as a Senator. I am proud to have worked with him in the formulation of this provision, which has now become title VI. I am privileged to stand with him in support of it today.

If the Senator from Connecticut will permit it, I would like to ask the Senator to yield for approximately 2 minutes at this point on another phase of civil rights, to be printed after the remarks of the Senator from Connecticut.

Mr. RIBICOFF. I yield, provided I do not lose the floor.

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

DECISION IN BARNETT CASE

Mr. KEATING. Mr. President, on reviewing yesterday's RECORD this morning, I was mildly amused by the excoriating criticism of the Supreme Court for its 5-to-4 decision that former Gov. Ross Barnett is not necessarily entitled as a matter of constitutional right to a trial by jury on criminal contempt charges.

Those who stood with the dissenters yesterday, in the past have not hesitated

to blast away at the Court for alleged deviations from judicial precedent of long standing. Yet when the Court, as in the Barnett case, refuses to stray from a long line of cases excepting criminal contempt cases from the operation of the constitutional right to jury trial, the proponents of a rigid rule of stare decisis—the rule that precedents should be followed without deviation—sing a different tune.

It is also not without irony that those who now embrace with such warmth a four-man minority view of what the Constitution requires, have not been distinguished in the past for enthusiastically receiving unanimous opinions of the Court in which these same dissenters have joined in other cases including the school desegregation decision.

Finally, it is ironical that those who now endorse former Governor Barnett's arguments find themselves in the same legal camp as the four Justices of the Court most often singled out for attack by the Court's most severe critics.

All this goes to prove the adage that law, like politics, makes strange bedfellows, and that, as every first-year law student knows, the definition of a thoughtful, well-reasoned dissenting opinion is one with which the speaker finds himself in agreement.

Obviously the Court was faced with a difficult decision in this case. More important in some ways than its holding on the merits is the demonstration we now have of the impartiality, integrity, and dedication of all the Justices of the Supreme Court—those in the majority as well as the dissenters—in their efforts to uphold a rule of law for all Americans.

I appreciate the courtesy of the Senator from Connecticut in allowing me to intervene at this point.

Mr. KUCHEL. Mr. President, at this point, will the Senator from Connecticut yield to me, provided all the usual guarantees and protections are given in that connection? I ask unanimous consent for that purpose, Mr. President.

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

Mr. RIBICOFF. I yield.

Mr. KUCHEL. I congratulate the Senator from Connecticut. As I sat here listening to him, it occurred to me that the old American colonial axiom, "taxation without representation is tyranny," is an additional argument which might be used in behalf of the completely valid position the Senator from Connecticut takes in this connection, for it is equally tyranny, is it not, to extract tax moneys from all the American people, but to deny the benefits of those tax dollars to some of our fellow citizens?

Mr. RIBICOFF. That is correct.

One distinguishing and characteristic feature of the Senator from California is that his fertile mind, his vivid imagination, and his wide knowledge enable him to go to the heart of matters in such a way that all can understand them. So I thank the Senator from California for his contribution.

Mr. KUCHEL. I thank the Senator from Connecticut very much.

Mr. RIBICOFF. Mr. President, the provisions of title VI are concise and straightforward. Section 601 would establish the basic principle that no person is to be discriminated against because of race, color, or national origin under any program or activity receiving Federal financial assistance, nor may any person for such reason be excluded from participation or denied the benefits of such program or activity. This principle would be established notwithstanding any inconsistent provision of any other law, such as the separate-but-equal provisions of the Hill-Burton Act or the Morrill Act.

Section 602 then would establish the procedure to be followed by executive agencies in implementing the nondiscrimination requirement of section 601. The first rule of this procedure is that each department or agency that is empowered to extend financial assistance by way of grant, loan, or contract—except contracts of insurance or guarantee—would be under a mandatory obligation to take action to make sure the nondiscrimination requirement of section 601 was being observed. The general procedure to be used in implementing the nondiscrimination requirement is then spelled out—and this is important:

First. The agency would adopt a nondiscrimination requirement by rule, regulation, or order of general applicability.

Second. Such rule, regulation, or order must be approved by the President.

Third. If discrimination occurred, the agency must advise the appropriate persons of the failure to comply with the nondiscrimination requirement.

Fourth. The agency must then determine that compliance could be secured by voluntary means.

Fifth. If enforcement action was necessary, the agency must then afford the recipients a hearing appropriate to the type of enforcement action that may be necessary. For example, the hearing preliminary to any withholding of funds would have to be more extensive than the hearing that preceded court action in which factfinding would occur de novo under judicial supervision.

Sixth. If, on the basis of the hearing, enforcement action was warranted, the agency then would make its choice of appropriate remedies, bearing in mind the requirement of section 602 that all action to implement section 601 "shall be consistent with achievement of the objectives of the statute authorizing the financial assistance."

The remedies provided by section 602 are withholding of assistance and any other means authorized by law. In general, the consistent-with-the-objectives requirement would make withholding of funds a last resort, to be used only when other means authorized by law were unavailable or ineffective.

To make that clear: The withholding of funds would be the last step to be taken only after the administrator or the agency had used every other possible means to persuade or to influence the person or the agency offending to stop the discrimination.

Seventh. Looking first to the "other means authorized by law," the agency could, for example, ask the Attorney General to initiate a lawsuit under title IV, if the recipient were a school district or public college; or the agency could use any of the remedies available to it by virtue of its own "rule, regulation, or order of general applicability." For example, the most effective way for an agency to proceed would often be to adopt a rule that made the nondiscrimination requirement part of a contractual obligation on the part of the recipient. Then violation of such a requirement would normally give the agency the right to bring a lawsuit to enforce its own contract; or, in the absence of a technical contract, the agency would have authority to sue to enforce compliance with its own regulations. All of these remedies have the obvious advantage of seeking to end the discrimination, rather than to end the assistance.

Eighth. If "other means authorized by law" were unavailable or ineffective, then withholding the assistance might be necessary. And, in such event, the consistent-with-the-objectives rule could not be used to undermine the overriding requirement of title VI that some action must be taken to implement the nondiscrimination principle. The withholding could take the form of a termination of existing assistance or a refusal to grant or continue additional assistance.

The procedure for carrying out the fund cutoff remedy would be as follows:

The cutoff must be limited to the program or activity in which there was discrimination.

Only the recipient who had failed to comply with the nondiscrimination requirement could be denied the assistance.

There must be an express finding that such recipient had failed to comply with the nondiscrimination requirement.

The head of the department or agency involved must file a full written report to the appropriate committees of Congress, explaining the circumstances and the grounds for the proposed action.

Thirty days must elapse after the filing of such report before the cutoff of funds could occur.

The recipient could obtain judicial review of the agency's action under section 10 of the Administrative Procedure Act, which includes authority for a stay, pending review.

Ninth. Finally, section 603 makes clear, in addition to the specific judicial review of any fund cutoff action, that all other agency action taken under section 602 would be subject to the same type of judicial review provided by law for similar action taken on other grounds.

That is the procedure of title VI. It is fair and reasonable. It authorizes no action beyond that needed to secure a right that all agree should be secured—the right to nondiscrimination in federally aided programs. At the same time, it is difficult to see how that right could be secured with anything less than what would be authorized by title VI.

The procedure would extend far more safeguards to the recipients of Federal assistance than are to be found in any other instance where Congress has already authorized Federal agencies to withhold assistance for failure to comply

with Federal requirements. For example, many statutes authorize withholding of assistance, without any provision for a hearing. Others provide for a hearing, but make no provision for judicial review.

Let me illustrate this point by explaining what authority Congress has already given to the Secretary of Health, Education, and Welfare in the event of racial discrimination by a State agency dispensing public assistance funds. If a State public welfare agency were to discriminate between Negroes and whites in the payment of federally matched welfare funds, such action would be out of conformity with the approved State plan. This lack of conformity would empower the Secretary to cut off funds to that State agency. He would not then be required to observe many of the procedural safeguards provided by title VI. And his action would not be reviewable in the courts, as the State of Arizona found out when it failed to make provision for Indians in its program of aid to the permanently and totally disabled. *Arizona* v. *Hobby*, 221 F. 2d 498 (1954). In that case, Arizona avoided loss of funds by making satisfactory compliance with State plan requirements. But the power to withhold funds is there, and has been used, as Ohio found out in 1938, when for a month it lost more than $1 million in public assistance funds.

I cite these examples, not to scare or alarm, but simply to show that there is ample precedent for congressional authorization for agencies to take effective action, including cutoff of funds, to secure compliance with statutory standards.

Personally, I think it would be a rare case when funds would actually be cut off. In most cases alternative remedies, principally lawsuits to end discrimination, would be the preferable and more effective remedy. If a Negro child were kept out of a school receiving Federal funds, I think it would be better to get the Negro child into school than to cut off funds and impair the education of the white children.

Sometimes those eligible for Federal assistance may elect to reject such aid, unwilling to agree to a nondiscrimination requirement. If they choose that course, the responsibility is theirs. In many other instances I think we have a right to expect that recipients of Federal funds will observe the requirement of title VI and voluntarily abandon any discrimination in federally aided programs.

But if all else fails, if other remedies are not effective and those who receive Federal funds persist in their determination to discriminate in dispensing these funds, then such recipients run the real risk of losing that Federal assistance.

And why not? The defense contractor who fails to fulfill his contract with the Government is not entitled to another contract. The farmer who violates acreage allotments is not entitled to support payments. The small businessman in violation of SBA regulations is not entitled to a small business loan. For what possible reason should the recipient of Federal funds be entitled to discriminate with impunity in the use of those funds and expect to continue doing so?

The fact is that the case for title VI is so strong, its need so clear, and its procedure so fair that some opponents have aimed their criticism, not at the provisions of the bill, but at some fanciful notions that are nowhere contained in the legislation. This type of opposition to title VI is a smokescreen, which conceals what the title provides and how it would operate.

Some of the more glaring distortions that have been advanced by such opponents are these:

First. Accusation: Title VI would authorize the Government to starve out whole regions. Answer: Title VI contains no authority whatsoever to withhold any Federal assistance except from the one recipient who is responsible for the discrimination. For example, if a school district receiving impacted area aid persists in discriminating, only the funds to that one school district would be jeopardized, not the funds to the county, or the State, much less the region.

Second. Accusation: Title VI would authorize withholding all Federal funds from a State. Answer: the remedies of title VI are specifically limited to the one program or activity in which discrimination occurs. Under no circumstances would discrimination in one federally aided program justify taking any action with respect to any other federally aided program.

Third. Accusation: The regulations to be issued to carry out title VI could be adopted by a janitor. Answer: Title VI specifically provides that rules, regulations, and order of general applicability to implement the title must be approved by the President of the United States.

Every rule, regulation, and order of any agency must be approved by the President of the United States, and no President of the United States will approve regulations handed down by a janitor.

Fourth. Accusation: President Kennedy was opposed to title VI. Answer: This grossest distortion of all is a shocking insult to the memory of our late beloved leader. President Kennedy made it perfectly clear what he opposed and what he favored in this area. President Kennedy said he opposed "a general, wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent." That type of cutoff is in no way authorized by title VI.

What title VI does provide is precisely what President Kennedy said he favored:

> I don't think we should extend Federal programs in a way which encourages or really permits discrimination. That is very clear.

And so should it be clear to all.

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

Mr. RIBICOFF. I yield.

Mr. PASTORE. I have been concerned about the often-repeated statement that the President of the United States had unalterably and unequivocally made the statement at a press conference that he was opposed to such a cutoff procedure. I have in my hand the full text of the question by the reporter and the full answer by the President. I was wondering if the Senator from Connecticut would agree with me that it ought to be placed in the RECORD at this time in its entirety.

Mr. RIBICOFF. I hope that the Senator will ask permission that it be printed in the RECORD.

Mr. PASTORE. Mr. President, I ask unanimous consent that the text of the question and answer be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

> Mr. HILL. Mr. President, will you attempt to cut off Federal aid to the State of Mississippi as proposed by your Civil Rights Commission?
>
> The PRESIDENT. I don't have the power to cut off the aid in a general way as was proposed by the Civil Rights Commission, and I would think it would probably be unwise to give the President of the United States that kind of power because it could start in one State and for one reason or another it might be moved to another State which was not measuring up as the President would like to see it measure up in one way or another. I don't think that we should extend Federal programs in a way which encourages or really permits discrimination. That is very clear. But what was suggested was something else and that was a general wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent, as a disciplinary action on the State of Mississippi. I think that is another question, and I couldn't accept that view.

Mr. RIBICOFF. The distinguished Senator from Rhode Island has made a very important point. He and I have been contending throughout the past 2 hours that what President Kennedy recognized as undesirable is exactly what title VI would not do. The President did not want to come in with a sword. He did not have in his mind any idea of revenge.

It was never his concept that if there were a violation in one instance, all Federal funds should be shut off. There are and were many who advocated such action. But President Kennedy never advocated it. The President recognized that he did not want funds to go for purposes of discrimination. The President recognized that with patience and tolerance we must do everything we possibly can to end discrimination. The President believed as we believed—and we believe now—that what we must try to do is to end discrimination, to bring people into compliance, and not to punish. The whole purpose of title VI is exactly that. Under no circumstances would title VI provide a blanket cutoff. If 1 school district out of 100 discriminates, we certainly should not punish 99 others.

As the Senator from Rhode Island has pointed out, if there were discrimination in one school district which refused to desegregate, we certainly would not wish to cut off public assistance or cut off road programs. Under title VI we would deal with each program separately and apply title VI only where the discrimination occurs.

That is why I believe the Senator from Rhode Island made a brilliant presentation to eliminate the smokescreen that has been built up as to what title VI would do. The claim is made that the title would be a $1 billion blackjack, and that the Federal Government would go in to wreak punishment and revenge on the Southern States and the southern districts.

That is exactly what could not be done under title VI. I hope that every Senator will read carefully the comments and remarks of the distinguished Senator from Rhode Island, and, in a minor way, the remarks I am making to explain exactly what would take place.

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

Mr. RIBICOFF. I yield.

Mr. PASTORE. I believe the Senator from Connecticut is being very modest about his participation in the debate. The RECORD should show that there is hardly any Senator on the floor of the Senate who is better qualified than the Senator from Connecticut in the position that he takes, particularly with reference to title VI, in view of his past responsibilities, not only as Governor of his State, where he established a national record of fine administration, but also as Secretary of Health, Education, and Welfare. He is intimately familiar with the practices about which he now complains. I believe that the Department of Health, Education, and Welfare, more than any other department, has met the situation, and has complained about the conditions he is trying so hard to do something about.

But I was wondering if at this very point we had not better consider the whole context of what the President said at that time, because it was prophetic. Without knowing what the reporters were going to ask him, the President was confronted with this question:

Mr. HILL. Mr. President, will you attempt to cut off Federal aid to the State of Mississippi as proposed by your Civil Rights Commission?

This is what the President said:

I don't have the power to cut off the aid in a general way—

That is the point that is being made by the Senator from Connecticut. There is no power here proposed to cut off aid in a general way—

as was proposed by the Civil Rights Commission, and I would think it would probably be unwise—

That quotation has been used by the opposition to title VI—that the President said it was unwise; but this is what he said:

I would think it would probably be unwise to give the President that kind of power—

Meaning general power—

because it could start in one State and for one reason or another it might be moved to another State which was not measuring up as the President would like to see it measure up in one way or another.

The President further said—and this is not being quoted by the opposition:

I don't think that we should extend Federal programs in a way which encourages or really permits discrimination. That is very clear. But what was suggested was something else and that was the general wholesale cutoff of Federal expenditures, regardless of the purpose for which they were being spent, as a disciplinary action on the State of Mississippi. I think that is another question, and I couldn't accept that view.

What President Kennedy said is precisely what title VI would do.

Mr. RIBICOFF. The Senator is correct. I know what the Senator has said was the case, as a result of conversations I had with the late President. These problems arose in connection with the Department of HEW. Unquestionably, more programs under HEW would be affected than all other programs put together. Basically, the President thought the Civil Rights Commission's attitude concerning a blanket cutoff was wrong. I thought it was wrong.

When the administration's proposal was first offered, I recognized the defect in title VI, because I realized that it would create problems which we should try to avoid. I wrote a memorandum to the Attorney General after I read title VI, pointing out the prospective danger, and suggesting what form the title should take. As title VI was revised it complied with the suggestions I had made in sending my memorandum to the Attorney General, pointing out the problems involved.

Therefore, I am very glad that the Senator from Rhode Island and I are spending this time to discuss the title. I find that there exist great doubts in the minds of distinguished, sensible colleagues of mine. They are under the impression that the provision would result in cutting off of Federal programs as a punishment, affecting the innocent as well as the guilty. Title VI does not affect those who do not discriminate. We are trying to establish a record on the floor of the Senate to spell out what title VI does and what it does not do.

There is no possible justification for permitting discrimination in the use of Federal funds. Title VI clarifies whatever doubts there may be as to the authority of the executive branch to end such discrimination. It takes away no existing authority. The procedure it establishes is fair and reasonable. Its enactment is long overdue.

This title is an essential part of one of the most significant pieces of legislation of our time. A century ago the principle of nondiscrimination was made a part of our Constitution. Ten years ago the Supreme Court's historic school desegregation ruling signaled the start of a new era in which this principle would become a reality. Since then the executive branch has been moving, cautiously at first but with firmness in recent years, to carry out the mandate of the Constitution. Now the Congress must face up to its responsibilities and legislate the protections and the procedures that are the right of every American.

The civil rights bill secures for all Americans rights that have been safeguarded in most of our States for decades. It is based on sound principles of law and basic principles of morality. The rights of all citizens are in doubt until the rights of every citizen are secure. I am proud to give my wholehearted support to this bill and proud to serve in this Senate at a time when the legislative responsibility in behalf of civil rights is finally to be met. I am confident we will meet that responsibility fully and effectively. Our obligation to our citizens and to our consciences require that we do.

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

Mr. RIBICOFF. I yield.

Mr. PASTORE. I wish to reiterate what I have already said. I am proud to be associated with the Senator from Connecticut this afternoon in the exposition and support of the civil rights bill, particularly with regard to title VI. The Senator from Connecticut has made a great contribution to the discussion of the title. I recommend that every Member of the Senate and every citizen of the United States read the statement of the Senator from Connecticut, because it is profound and will be an inspiration to all who read it.

Mr. RIBICOFF. Mr. President, I thank the Senator.

I yield the floor.

TRIBUTE TO GEN. DOUGLAS MacARTHUR

Mr. ROBERTSON. Mr. President, I share the grief of all who knew a great soldier and a great American citizen, Gen. Douglas MacArthur.

I enjoyed a warm friendship with General MacArthur since the days of World War I, when he was a brigadier general and I was a major. In my opinion he was one of the most brilliant field commanders our Nation has ever produced, and I am very happy that he honored the birthplace of his mother by authorizing the establishment of the MacArthur Memorial in Norfolk to house his many medals, mementoes, and so forth.

Not only was General MacArthur a brilliant man, but also he was a very brave man and he received more decorations for bravery in action than any other military officer in the history of our Nation.

Our Nation and the world are better for the lives of men like Gen. Douglas MacArthur.

SILVER DOLLARS

Mr. CHURCH. Mr. President, recent editorials in Idaho newspapers have given added emphasis to the concern in our part of the country, which I have expressed on several recent occasions, over talk that the silver cartwheels, dear to the West, may disappear from circulation. The editor of the Sandpoint News Bulletin writes that—

It will be a tragic day for America if the silver dollar is allowed to drop into the limbo of forgotten things along with the 20-dollar gold piece and the balanced budget.

And the editor of the Boise Statesman quotes with approval from a "save the dollar" proclamation of the San Francisco Chronicle the assertion that "the West was won by men who trusted that dollar and no other. Their hardy de-

scendants still favor it." The Statesman adds:

Take that, you palefaces in Washington, D.C.

Mr. President, in full agreement with these robust sentiments, I ask that both editorials may be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Sandpoint (Idaho) News Bulletin, Mar. 19, 1964]

LET'S MINT SOME DOLLARS

Senator FRANK CHURCH made strong representations to a House subcommittee a few days ago in support of legislation authorizing the minting of $150 million in new silver dollars. He should have strong support from the entire West in this position.

The silver "cartwheel" played a vital role in the conquest of the West and it enjoys a place in the affections of Western people that our cousins in the effete Midwest and East can't comprehend. There's something reassuring about the jingle of good silver money in one's pocket—a feeling that here is something sound and honest. The Lord knows we all need that feeling as we survey the fiscal chaos that passes for monetary management in Washington, D.C., today.

Economists may make out a case for the argument that we can't afford to use silver at $1.29 an ounce in the minting of silver dollars, and industrialists who buy silver for commercial use will claim there just isn't enough of the metal being produced to allow for its use in dollars. If the Congress will authorize the minting, however, Idaho, Nevada, and the other Western States will undertake to furnish the metal. We've great mountains of it and digging it out will provide a great many jobs and stimulate the economy with good, decent, productive endeavor.

It will be a tragic day for America if the silver dollar is allowed to drop into the limbo of forgotten things along with the $20 goldpiece and the balanced budget.

[From the Boise (Idaho) Statesman, Mar. 26, 1964]

VANISHING SILVER DOLLARS

The House Appropriations Committee has refused a request of the Treasury Department to mine 50 million silver dollars at a cost of $650,000. The stock of the "cartwheels" is rapidly disappearing from the Treasury. A growing number of coin collectors is held partly responsible as would be the gaming industry in Nevada.

No dollars have been minted since 1935. On May 31, 1963, the Treasury held 69,888,192 silver dollars and on February 25, 1964, only 25,300,720, or a decrease of $44,367,572 in less than 8 months. So rapid has been the depletion that the Treasury Department has been closing its servicing window down to 2 hours a day and limiting 50,000 silver dollars to each customer.

The House committee, in turning down the Treasury's request, said current facilities in the Nation's two active mints are being needed to produce small coinage.

Said the committee:

"Shortage in minor coins is the most critical in the history of the mint, and the demand is increasing which means the mints must operate three shifts every day of the week;

"Additional silver dollars can be minted only at the expense of minting minor coins;

"At the present rate of usage, the supply of free silver in the Treasury will be exhausted in 7 or 8 years;

"The United States is using silver annually at a rate approximately equal to the entire world production;

"The amount of silver in a silver dollar at current price ($1.29) is worth slightly more than a dollar, while the amount of silver in two half-dollars is worth about 92 cents.

"Should the price of silver continue to rise, even just a few cents per ounce, it would be profitable to melt down silver dollars for the silver content."

Western Congressmen, at their oratorical best when the silver problem is being debated, are sharply critical of the committee's decision.

Representative COMPTON I. WHITE, JR., Democrat, of Idaho, wants the cartwheel production to continue and suggests the reopening of the San Francisco mint.

Senator MIKE MANSFIELD, Democrat, of Montana, reminded the Senate that "in our country the silver dollar is a medium of exchange. It is hard money. We like it. We like it so much that even bank robbers are getting into the act. About a month ago the bank at White Sulphur Springs, Mont., was robbed, and, believe it or not, in excess of 20,000 silver dollars were taken from the bank, put into a truck, and carted away."

Senator FRANK CHURCH, Democrat, of Idaho, announced, as senior Senator from the Nation's leading silver-producing State, he was joining in sponsorship of a bill to mint silver dollars with reduction of silver content which would defray most of the cost of the minting.

Said Senator CHURCH: "There is a strong attachment in the West to the silver dollar. As a young boy, I recall how my father used to say that he never felt he had a dollar in his pocket when it was a paper dollar. He always asked for silver dollars in place of paper currency, and that feeling still remains very strong in the Western States."

Of all arguments presented, we cherish the reminder most of the San Francisco Chronicle in its proclamation on "save the dollar—the West was won by men who trusted that dollar and no other. Their hardy descendants still favor it."

Take that, you palefaces in Washington, D.C.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in 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. STENNIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi wish to have the floor?

Mr. STENNIS. I had addressed the Chair merely for the purpose of suggesting the absence of a quorum.

Mr. PASTORE. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I do not have the floor.

Mr. PASTORE. Mr. President, in explanation of title VI, we have been asked from time to time to give specific cases. I think we tried to do that in large measure this morning and this afternoon.

It has been brought to my attention that the Greensboro Daily News of Saturday, April 4, 1964, contained a very remarkable editorial on the very point we have been discussing with respect to title VI.

The title of the editorial is, "A Broken Nose and a Black Eye."

It reads:

Of course the management of Moses Cone Hospital, as well as the city of Greensboro, owes an apology to Dennis Nathaniel, a 29-year-old graduate student from India, who was refused emergency service at the hospital last weekend and referred to L. Richardson Hospital.

Nathaniel, a student in geography at the University of North Carolina at Chapel Hill, suffered a broken nose in a cricket match and after a 10-minute wait was told he could not be treated. Nathaniel said he was "bleeding like a stuck pig;" but he returned to Chapel Hill and was admitted to the student infirmary there.

Newsmen learned that the hospital management stated that nurses on emergency room duty at Cone Hospital "were following directions and did not know" that Nathaniel was from India.

But whether an emergency patient is from India or Timbuktu or Chapel Hill or Greensboro—and regardless of race—a hospital's emergency room, it seems to us, should accept any individual for emergency treatment, if he needs it. Perhaps the general admissions policy of Cone Hospital needs reviewing by its board of trustees so that incidents of this type, whether they involve foreigners or U.S. citizens, will not occur again.

The incident at Moses Cone Hospital has dealt the whole city of Greensboro a black eye.

Mr. President, if we needed any example, here it is from the local newspaper where the incident actually happened, in a hospital which receives Hill-Burton money—money which belongs to all the people of the United States.

Mr. STENNIS. 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. 120 Leg.]

Aiken	Hart	Monroney
Allott	Hickenlooper	Mundt
Anderson	Hill	Muskie
Bartlett	Holland	Nelson
Bayh	Hruska	Pastore
Beall	Humphrey	Pearson
Bible	Inouye	Pell
Boggs	Jackson	Prouty
Brewster	Jordan, N.C.	Proxmire
Burdick	Jordan, Idaho	Ribicoff
Cannon	Keating	Robertson
Carlson	Kennedy	Saltonstall
Case	Kuchel	Scott
Church	Lausche	Simpson
Clark	Long, Mo.	Sparkman
Cotton	Magnuson	Stennis
Curtis	Mansfield	Symington
Dirksen	McClellan	Talmadge
Dominick	McGovern	Tower
Douglas	McIntyre	Walters
Ellender	McNamara	Williams, N.J.
Fong	Mechem	Williams, Del.
Gore	Metcalf	Yarborough
Gruening	Miller	Young, Ohio

The PRESIDING OFFICER. Seventy-two Senators have responded to their names; a quorum is present.

THREATS OF CIVIL RIGHTS DEMONSTRATIONS

Mr. STENNIS. Mr. President, in the past few weeks there have been a number of thinly veiled threats by leaders of the various organizations which are pushing so determinedly for the passage of the pending civil rights legislation to send lawless mobs back into the streets

if there is delay in acceding to their demands or if the pending bill is weakened in any respect. It is clear beyond question that some of the leaders of the more extreme organizations are both planning and moving to shape and build their "movement" in support of H.R. 7152 into a full-scale operation of direct violence.

Unfortunately, as I shall point out, instead of there being an effort to control and restrain these extremists, they have received sure encouragement from statements made by civil rights proponents on the floor of the Senate, although I wish to make it clear that I know that no individual Senator intended to promote or even encourage any violence by any statement he would make here or elsewhere.

In the Washington Post of March 27, 1964, Susanna McBee reported an interview with Martin Luther King who, she said, forecast "direct action" both in Washington and throughout the country if the debate in the Senate threatens to weaken the civil rights bill. King was reported as stating that 1 month was long enough for a "legitimate debate" and as predicting that "a creative direct action program" will start if the Senate is still talking about the bill after the first week in May.

"At first we would seek to persuade with our words and then with our deeds," King was reported as having said.

He was further quoted as saying that the demonstrations during the filibuster probably would not include civil disobedience but he warned that if Senators are "so stubborn" then civil disobedience could become necessary to arouse the Nation's conscience.

He also said that he had conferred with 15 other leaders on plans for the direct action program and that demonstrations would take place this summer "even if the bill is passed" to test compliance in the Southern States.

In the same vein, Julius Hobson, the southeastern director of the Congress of Racial Equality, was quoted in the Baltimore Sun of March 31, 1964, as proposing sitin demonstrations after May 1 in the offices of Senators who might be filibustering the civil rights bill. He also suggested the possibility of a march on Capitol Hill by various civil rights groups as a further example of civil disobedience.

With or without passage of the rights bill, Hobson predicted that there would be an increase in the number of civil rights demonstrations this summer. He explained that most of these would be attempts to test the provisions of the legislation.

I have quoted these statements to show that these civil rights leaders have in mind the instigation of direct action which is certain to result in further physical violence. These statements show the futility of trying to appease those who control and direct the lawless mobs. As I have already noted, these and other statements include threats of action against Members of the Senate itself.

The fact that such direct action is deliberately planned and that it is supported by many organizations is made clear by an editorial which appeared in the Shreveport, La., Journal of March 27, 1964, entitled "Mississippi Marked for New Invasion." I quote from this editorial as follows:

> The National Council of Churches has announced it will send a "task force" of men and money into the Mississippi Delta to wage war on what it describes as "persistent" poverty and racial injustice. The delta project will call for a tentative annual budget of $250,000, with the National Council paying for 60 percent of the cost and the World Council picking up the tab for the remaining 40 percent. Officials of the National Council of Churches are entering into this project with the frank acknowledgment that they expect to become involved—on the Negroes' side—in clashes between white and Negro residents of Mississippi.
>
> Complementing this racial agitation will be what the Harvard Crimson—Harvard University's daily newspaper—has described as an invasion by militant young Negroes of the NAACP and the SNCC. In its issue of March 11, the Crimson attributes to Claude Weaver, SNCC worker and Harvard student recently released from jail in Jackson, a statement that "Negroes might start killing the white people in Mississippi pretty soon."
>
> "Yes," Weaver is quoted as saying, "if we wanted to get a small Mau Mau going, it wouldn't be difficult. * * * Might be a nice summer project."
>
> In an editorial of March 12, the Crimson speculates upon the coming invasion of Mississippi as follows:
>
> "This summer will witness a massive daring, probably bloody, assault on the racial barriers of Mississippi.
>
> "The 1964 plan * * * calls for an invasion of 'over 1,000 Peace Corps-type volunteers,' in order to 'shake Mississippi out of the middle ages.'
>
> "Where former projects concentrated on a specific grievance, such as voting or public accommodations, this summer's effort will cover the whole field at once. An accelerated voter registration campaign aimed at the November elections has already begun. Freedom schools, stressing political educational and the humanities, will be established in Negro areas. The project also provides for special community centers staffed by nurses, librarians, and social workers. Still more ambitious is the white community project, designed to 'organize poor white areas in order to eliminate bigotry, poverty, and ignorance.'
>
> "Central to the project * * * is the anticipated lawlessness of Mississippi whites. The planners reason that massive nonviolence will precipitate a crisis of violence, which they consider prerequisite for further progress. Understandably, such candid reasoning disturbs moderates torn between respect for civil tranquillity and support for civil rights. In this case, however, rights and tranquillity are not compatible."

So there you have it. There is the explanation of why the National Council of Churches is lobbying alongside the NAACP for passage of the infamous civil rights bill in the Senate today.

> No longer content to sponsor such mild interracial activities as its annual observance of "Race Relations Sunday," the National Council of Churches now espouses an integrationist movement which it expects to end in violence.

Let me call attention to just one or two of the demonstrations which already have taken place. The New York Times of March 31, 1964, carried an Associated Press article from Phoenix, Ariz., that—

> Crowds of civil rights demonstrators, screaming "freedom," blocked entrance to the State senate building and had to be removed by highway patrolmen today.

The purpose of this demonstration was to demand the passage of a public accommodations bill. According to the article, highway patrolmen found it necessary to form a solid wall down both sides of the entrance so that legislators could leave the building.

One young Negro girl was quoted as shouting, "We need to kill them."

The article also stated:

> The demonstrators also encircled Gov. Paul Fannin's auto as he left the Capitol for lunch. A dozen patrolmen were forced to clear a path through the sign-carrying demonstrators.

So that he could leave the grounds.

In that one occurrence, the lawless demonstrators succeeded in blocking both the legislative and the executive branches of the government.

Earlier dispatches had carried reports of demonstrations in Frankfort, Ky., in support of a demand that a public accommodations bill be passed.

An article in the Washington Daily News of March 17, 1964, reported that 23 civil rights demonstrators seeking passage of a public accommodations bill began a sit-in and hunger strike in the gallery of the Kentucky House of Representatives, in Frankfort. A dispatch from Frankfort, which appeared in the Post of March 18, 1964, reported that a civil rights leader raised the prospect of "uncontrolled demonstrations" in sympathy with a contingent of hunger strikers in the Kentucky House gallery.

That statement was made by Negro lawyer, Harry McAlpin, of Louisville, acting chairman of the Allied Organization for Civil Rights, and a member of the State board of education.

McAlpin was quoted as saying:

> Uncontrolled demonstrations may be triggered by the general assembly's refusal to act on public accommodations.

Those are only two of the epidemic series of demonstrations, picketing, sitins, and boycotts with which this country has been plagued, and which in the past have resulted in violence. There have been literally scores of others. These demonstrations display complete scorn for law and order and established lawful authority. The demonstrators have descended, in peace-disturbing episodes of various sorts, upon the offices, and even the homes, of Governors, mayors, and other public officials. As I have said, we have already had numerous instances of actual violence. Now we have clear threats of additional violence as a part of the "direct action" which is being so carefully and deliberately planned. Without question, more violence looms on the horizon unless firm, definite, and positive action is taken to stop it now. If it is not stopped now, it cannot and will not be stopped later.

Mr. President, yesterday we heard on the floor of the Senate statements about a great many alleged facts in regard to activities last summer in Greenwood, Miss., during the prolonged demonstrations in that fine little city. I personally know the mayor, many of the councilmen, and many of the others who were instrumental in helping to keep that situation under control. I do not believe

any public officials have ever been forced to go through more of an ordeal in attempting to prevent violence. If violence had been allowed to erupt, for a time at least it would have continued uncontrolled. People who live at a distance and do not come to grips with these problems do not know what they are talking about when they discuss isolated instances of that sort and, therefore, attempt to condemn the officials of the city, county, or State concerned. Such instances develop in many places; and I admire the attitude of the people of the South who deal effectively with them. I am also sure that in areas outside the South, local officials do their utmost to deal effectively with such situations.

If violence ensues, we have only ourselves and the others responsible for the operation of the Federal Government to blame if we do not take steps to prevent violence now, rather than to encourage it, for it is clear that those who are responsible for such acts of violence regard the slightest amount of encouragement as a green light indicating that they may proceed even further.

In Greenwood, Miss., we experienced these lawless demonstrations and invitations to violence in the spring of 1963. On May 21, 1963, in a speech on the floor of the Senate, I called attention to the clear pattern of the operations of the demonstrators. I said:

> The pattern of activities is clear. The agitators move into a peaceful community, hold meetings, make speeches, organize demonstrations, and otherwise play upon the emotions of both races and excite them to a fever pitch.
>
> In such situations, if members of one race are aroused, it is inevitable that members of the other race will be aroused.

I read further from my statement on May 21, 1963:

> The actions almost inevitably produce a powder-keg situation in which riots, violence, and even bloodshed become almost inevitable.
>
> When this point is reached it then becomes necessary for the local law-enforcement officials to take action to maintain law and order. The actions of the law officers in putting down the disturbances results in appeals to Washington for Federal intervention. These appeals—often regardless of the merits—all too often receive a preconceived and sympathetic response.

Let me call attention to some of the statements which have been made—in good faith, I am sure—on the floor of the Senate by civil rights supporters which not only lend aid and comfort to the agitators, but which also actually encourage their lawless activities.

The Senator from Minnesota said in a speech on the Senate floor March 30:

> The question is: Are we going to debate this issue with due process of law, or will it be decided in the streets and back alleys with clubs and violence? That is the question.

On March 9, the Senator from New York [Mr. JAVITS] made these comments:

> Mr. President, there is a timetable for the civil rights bill. That timetable cannot be written in the Senate Chamber.
>
> Anyone who wishes to take the trouble to do so may inquire of the police chief of any big city in the United States, North, South, East, or West, as to what the timetable is.
>
> * * * That police chief will give the timetable of the civil rights bill, because when summer comes we shall have to have an answer to these people. We must have an adequate and a just answer for them. If we do not have a just answer, we shall be in grave difficulty.
>
> In my opinion, that time is June. That is it. That is when we shall have reached the moment of truth.

I cite those as illustrations of arguments made on the floor of the Senate by Senators who have said the Senate must pass the bill because of duress and political intimidation. In other words, they say the Senate must pass the bill in order to prevent more disturbances.

That is an extremely poor argument, but there is more than that involved. Involved is the principle as to whether, on the subject of civil rights or any other subject, Congress can be intimidated, oppressed, and threatened into passing proposed legislation for the benefit of any one group. If such proposed legislation were passed for the benefit of one group, of course, the same principle would be applied to all groups, and Congress would be compelled to pass measures for the benefit not alone of those favoring civil rights, but those seeking legislation on other subjects.

The second point involved is that agitators receive encouragement from the words spoken on the floor of the Senate. They can take the words spoken and give their own interpretation of these words to those whom they are trying to arouse and stir up. The violence which is sought to be avoided is unmistakably, although unintentionally, aided and abetted.

On April 2, the Senator from Oregon [Mr. MORSE] said:

> We have failed too long to deliver the Constitution of the United States to the Negroes of America; and this may be our last opportunity to deliver it to them without the flowing of great quantities of human blood, for I believe that the martyrs, or those who are holding the attitude of martyrs, among the colored population of this country, are not going to wait any longer; they are ready to die for their constitutional rights but they will not die alone.
>
> I say to the Members of the Senate that if they vote for the slightest "watering down" of the full constitutional rights of the Negroes of this country, such Senators will perform a great disservice to the Nation, and will have to assume their full share of the responsibility for a disturbance that will flow from a failure to give the Constitution in full to the Negroes of America.

With great deference to the Senator from Oregon, I believe that he has argued that we must not consider any "watering down" of the measure. I suppose he refers to possible amendments that will be voted upon. He has said that we must not vote on them according to their merits; and that if we do, we shall be responsible for the spilling of human blood.

Such an argument as that is contrary to every form and principle of our Government. It is contrary to our responsibilities. It brings into play a pattern under which our Nation could not survive. It makes no difference where they are from or what their purpose is, even though they have good motives and there is some merit in their claim, if any group can, by processes of disorder and lawlessness, intimidate or coerce the legislative branch of the Government to pass a law that they like, our form of government cannot survive such a pattern. A dictatorial form of government could survive it, but our form of government could not survive such a pattern.

On April 6 the Senator from Missouri [Mr. LONG] made the following statement:

> If the bill fails to pass or is seriously weakened, then the primary thrust of the struggle will remain in the streets. Conflicts and issues will be determined and resolved by economic, social, and political pressures accompanied by passion, emotion, and, if past experience is an accurate indication, violence.

I emphasize again that even though Senators themselves do not intend to contribute to violence, lawlessness, or mob action, the only interpretation that can be put upon their words by leaders who are inclined to push the colored people in our country into movements of violence is spelled out in the words of Senators. As I have said, it is a green light to the agitators. It is an encouragement to them. I am shocked to think that we could long drift in that way. I believe that we should evaluate these subjects, and that in some way influence should be used in high places in Government, including those who occupy seats on the floor of the Senate, to keep down acts of violence and bring about some kind of peace, tranquillity, and understanding, both before and after we dispose of the bill.

Other statements in the same vein could be quoted but these are sufficient to show that almost every day on the floor of the Senate itself we hear blunt threats of violence unless we bow to the demand of the civil rights extremists. These demands are accompanied by the statement of Roy Wilkins, as reported in the Washington Star of April 2, that—

> We are not prepared to sacrifice a semicolon or a comma of the draft which came from the House.

The statements which I have quoted have all been made by Senators who are prominent in the fight for the passage of H.R. 7152. I know that they are sincere in their efforts. I know that on this point they are swept beyond the point of reason. They set forth facts in the Senate, and by setting them forth, they encourage results of the kind that they do not intend. At the same time the only interpretation that would be put upon their remarks is to encourage, and thereby further, the very violence of which they speak.

The plans for "direct action" are complete or almost so. Just the other day, as reported in the New York Herald Tribune of April 1, Mrs. Malcolm Peabody, the 72-year-old mother of the Governor of Massachusetts—both of whom I mention with great deference—was arrested in a civil rights demonstration in St. Augustine, Fla. The story also reports that "117 people, mostly Negro youths, were arrested in St. Augustine for racial demonstrations."

As I recall the quotations from Mrs. Peabody, before she went to Florida, she said that she was going down there to take part in these activities, and if I remember correctly, she said she expected to be arrested.

I believe that the deliberate purpose of all these plans for direct action is to create a situation in which bloodshed is inevitable. That blood will be on someone's hands.

The Governors of the States, the mayors of the cities, and the local law enforcement agencies will, of course, try to control the situation when they are invaded by paid agitators and those who stir up strife among the races. But, in some instances, at least, the demonstrations will quickly get out of hand and, true to the threats and predictions made on the floor of the Senate, violence will result and blood will run in the streets. Then will come the cry that Federal troops be sent in to protect the invaders.

Mr. President, I was never more concerned about anything during my entire public life than I am about the results of the recurrence of mob actions and marching to provoke and stir up violence. I am concerned about it, regardless of the passage of the bill. An almost hysterical wave has been going over the country. It can be generated almost overnight in bands and groups led by irresponsible leaders that can precipitate the worst kind of trouble and almost uncontrollable trouble.

The passage of the bill would not help a situation of that kind. It would make the situation worse, in addition to setting a precedent with reference to other subject matters that might be proposed.

Can we not face up to the ominous situation which confronts us now and take action to restrain and discourage the threatened violence? We can start with ourselves—here in the Senate of the United States. We can stop this debate. We can say to the groups which are agitating for this legislation that we will not tolerate force and lawlessness in this Nation—that this bill will not be considered further until the civil rights leaders have established beyond question that their plans for demonstrations, marching in the streets and additional violence have been abandoned. We can make it clear to them and to all other groups that we will not act under the coercion and duress which are involved in their threats of violent action.

At the same time, the President of the United States can call upon the Governors of all the States to be alert and on guard in every way against possible outbreaks of violence as the result of organized so-called direct action. The President of the United States, as the Chief Executive, should make it known that he will withdraw his support of this legislation until such time as he has been assured that the planned resort to violence has been abandoned. We all know that the President does not want such violence.

Stern and positive action is necessary if the plans of the civil rights forces, which I have been describing, are to be halted. In the heat of emotion and passion, and when aroused, any group of demonstrators can quickly get beyond control and become dangerous. Negroes are no exception. They now believe, and with good cause, that they can act largely with impunity. They are led to believe this by the past statements of some of the Nation's leaders and by such actions as those of Mrs. Peabody—to whom I have already referred—who, in good faith, I am sure, nevertheless went to St. Augustine for the purpose of participating in sit-ins and demonstrations of some kind and, according to the newspapers, with the intention of being arrested.

At the same time, according to the Herald Tribune, two Negroes nearby "asked to be arrested."

That story was on the front page of the Herald Tribune last week. In addition, there was a photograph of two young Negroes who, according to the newspaper account, had come to be arrested. The picture showed that the police were holding dogs. The demonstrators have been led to believe that that is the thing to do. They want to be arrested. When someone wants to be arrested and break his way into jail, there will be trouble for someone, and it had better be stopped.

However, the picture in the Tribune, and the accompanying caption, stresses the fact that the policemen were accompanied by police dogs. I have no doubt that these were for their own protection.

All of these people expected to be arrested. More important, they expected that no punishment would result. This accurately reflects the sad and disturbing state of affairs which exists in this country today.

Mr. President, it is beyond my power to describe the situation which existed in Jackson, Miss., last year and the year before—the sit-in demonstrations, the marchers, the great number of invasions, and the plain violations, in simplest terms, of elemental rights and laws necessary to keep the peace.

I thought I had in my desk some pictures, but they seem to have been returned to my office. They were pictures of young Negro men taken by the Associated Press and the United Press International. I remember two of them in particular. One was holding a case of Coca-Cola bottles and the other one was drawing back to throw bottles. Held at bay were six or eight policemen of the city of Jackson. That picture is only a glimpse at conditions that occurred, varying from day to day, with great crowds of people behind the policemen, showing what they and the police were subjected to time after time.

Mr. President, human nature can stand only so much of that kind of pressure. When people are organizing for what their leaders call direct action, I shudder to think what may happen, not only in the South, but elsewhere, if this kind of drive once gets moving.

I repeat—and I conclude on this point—that if we are to avoid the violence with which we are threatened by the civil rights proponents, we must make it clear that it will not be tolerated. We must make it clear to these groups that they have no privileged status—that they are subject to the law, and not above it.

Mr. President, I never thought I would have to stand on the floor of the Senate, with the deepest kind of concern for the safety of the people of my State and all States, of both races, or all races, and plead for consideration of a bill in an atmosphere of calm and deliberation, in which men can exercise a choice and judgment, and can exchange ideas on the merits regarding the problems involved. That is what we are faced with today.

If we do not change the sentiment, the feeling, and the attitude of proponents of civil rights legislation and their leaders, to whom I have already referred, the most serious kind of violence will break out. The situation will be made worse rather than better. The problems concerned in this legislation will be made worse rather than better. If we yield to pressure, we shall have set a precedent that will plague our form of government as long as it lives.

We ought to coordinate our thinking now and stand as one, regardless of our position on the bill. The legislative branch of the Government and the executive branch of the Government should stand as one and let it be known, positively and finally, that such pressures cannot be tolerated; that legislation will not be considered in such an atmosphere; that the Senate is a deliberative body; and that its Members will assert their prerogatives in that field as a part of their responsibility.

In that way, we can have some opportunity to consider legislation on this subject or any other subject in an atmosphere that will bring about a sound result.

COORDINATING COMMITTEE FOR FUNDAMENTAL AMERICAN FREEDOMS, INC., AND H.R. 7152

Mr. President, turning to another phase of this debate, during the debate on the Civil Rights Act of 1963, there have been repeated attacks by the proponents of this measure on the newspaper advertisement of the Coordinating Committee for Fundamental American Freedoms, Inc., which appeared in a number of newspapers throughout the country. On March 23, 1964, I stated on the floor of the Senate that at a later time I would discuss the merits of this advertisement and the accuracy of the statements made in it. I propose to do so now.

What I shall have to say is not strictly a defense of the advertisement. It is entirely justified and needs no defense from me or anyone else. However, since the advertisement brings into sharp focus the weighty issues involved in H.R. 7152, a discussion of the advertisement affords an appropriate and timely opportunity for the discussion of the pending bill and the grab for power which it represents.

There should be no surprise that the proponents of the civil rights legislation should take exception to some of the statements contained in this advertisement. Throughout the debate on the Senate floor they have been quick to take exception to and disagree with many statements made by those who oppose

the passage of H.R. 7152. This is entirely understandable and no one denies them their right to so disagree.

However, the violence of their reaction to the advertisement in question is eloquent testimony of their apprehension that knowledge by the people of the real purpose and effect of H.R. 7152 can only stir vigorous and strong opposition to its passage. Indeed, statements which have been made on the floor of the Senate with respect to this advertisement and as to the tenor of the mail received by some Senators who are supporting this bill show very clearly that strong opposition to the civil rights bill exists all over the Nation. This opposition has only recently been heard. The fact that it is now coming to the surface is, in the view of the sponsors of this legislation, real cause for both surprise and alarm. Thus, the advertisement has become a focal point for attack.

Many studies and analyses have been made of the bundle of legislation which is now pending before the Senate under the title of the "Civil Rights Act of 1963" by both opponents and the proponents of the legislation. The advertisement which was prepared and sponsored by the Coordinating Committee for Fundamental American Freedoms, Inc., is only one of a number of such studies. It would have perhaps gone unnoticed except for the fact that its penetrating analysis has been strikingly effective.

I have given careful study to this advertisement and have compared it with the bill now being considered by the Senate. By and large, I find that it correctly describes the effect and intent of the pending legislation. Of course, the procivil rights forces challenge some of the statements just as they similarly challenge statements made on the floor of the Senate. However, in many respects, the statements in this advertisement are somewhat less extreme than statements which have been made about the legislation both on the floor of the Senate and on the floor of the House of Representatives. Except for the unquestioned fact that it has been effective, I see nothing in it which should provoke the ugly charges about it which have been heard in the debate on the floor of the Senate. I see nothing in it which exceeds the boundaries of fair comment and legitimate debate upon which is conceded to be the most important and far-reaching domestic political issue of the day.

A $100 BILLION BLACKJACK?

The fact that the bill refers to the pending legislation as "a $100 billion blackjack" has been violently assailed on the floor of the Senate in sometimes intemperate language. I am not quite certain whether this attack is based on the use of the word "blackjack" or on the dollar figure of 100 billion.

I shall not dignify any attack on the use of the word "blackjack" with any extended discussion. It is apparent that it is both possible and probable that, if the bill is passed, its potent and power-packed provisions will be used to bring about compulsory adherence by individuals, private businesses, and public agencies to standards and conduct which Federal agencies and departments deem desirable and to which adherence would not otherwise be given. Likewise it is clear and certain, if the bill becomes law, that programs of Federal assistance can and will either be discontinued or threatened with discontinuance if they are not administered to the satisfaction of the affected Federal agency and the standards of nondiscrimination laid down by it. Whatever else this might be—and no matter how desirable this end is in the views of those supporting this legislation—it will amount to legal compulsion. The designation of it as a "blackjack" is certainly within the realm of fair and legitimate comment which would cause no violent reaction if it did not step upon the toes of the advocates of H.R. 7152.

Clearly, there can be no valid objection to measuring the amount involved at $100 billion. Indeed, it is entirely possible that this amount is conservative. I believe it is very conservative. The dollar value of the activities affected by the total impact and effect of the bill, if it becomes law, may very well exceed that sum by far—double, triple, or even quadruple—or more. I will mention only a few of the Federal programs which can and will be affected by title VI of the bill alone.

Mr. SPARKMAN. Mr. President, will the Senator from Mississippi yield at that point for a question?

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Mississippi yield to the Senator from Alabama?

Mr. STENNIS. I am glad to yield to the Senator from Alabama for a question.

Mr. SPARKMAN. I should like to ask a question before the Senator begins to enumerate the various activities which might be affected by the bill. The dollar value, of course, is highly important, but the distinguished Senator from Mississippi—one of our learned constitutional authorities—made a statement a few minutes ago that any agency of Government would be empowered to invoke the terms of the bill. Would not the tendency be to place in the hands of individual persons, or agents, the power to carry out the terms and provisions of the bill, without providing guidelines within the legislation itself, or the setting of adequate standards?

Mr. STENNIS. The Senator is correct. That is the power part of this provision. The fact that these men have that potential power is a constant threat. All they have to do is mention it and that puts the heat on, so to speak, on the other officials with whom they have to deal.

Mr. SPARKMAN. Figuratively speaking, it is a sword of Damocles hanging over the heads of any persons carrying out one of these programs, or enjoying the benefits of one of these programs; is that not correct?

Mr. STENNIS. The Senator is correct. He undoubtedly has had the experience that I had last year. I received many telephone calls from, and was visited by many people who represented relatively small manufacturing operations in Mississippi that did not sell the Federal Government $1 worth of their products, but happened to be owned by a company which had plants in other States, like Ohio and Indiana, which did do business with the Government. It was insisted that they submit to certain formulas for which there was no authority, and furthermore there was no connection with the Federal Government in what was being manufactured, except a remote affinity with a chain company.

In spite of that, the most terrific pressure was applied on those small manufacturers. I am sure the Senator from Alabama has had the same experience. Perhaps it is happening in his State even now. This illustrates the power I am talking about.

Mr. SPARKMAN. I certainly have had such experience. Does the Senator not see some similarity between that situation and the question we have discussed a great deal and protested against—namely, guilt by association?

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. In other words, the situation is an indirect condition, so indirect that one can hardly see it; and probably it would not be enforceable in court. But, how does the small businessman know that it will not be so? The distinguished Senator says it would be used as a constant threat; is that not true?

Mr. STENNIS. The Senator is correct. Earlier today I heard discussed one title of the bill. The Senator from Mississippi did not have an opportunity to debate it with the Senators who discussed it. It is title VI. It sounds good to say that anyone who is aggrieved by any rulings can have a judicial review. But, as the Senator from Alabama has pointed out, what chance does the little man have, the little manufacturing plant owner, the little businessman in Alabama, Indiana, or anywhere else, to obtain a judicial review of these demands? If he is to make any money he must keep his machinery turning and make his product and be paid for it.

Mr. SPARKMAN. He must give all his time and attention to that enterprise.

Mr. STENNIS. Yes. He cannot devote all his time to litigation. He must devote himself to the operation of his business. Thus, while the provision for judicial review may look attractive on the surface, it is not as simple and expedient as it sounds.

Mr. SPARKMAN. I did not hear this statement made on the floor of the Senate, but I heard it said over the radio this morning that the opponents of the bill had so badly distorted it that it was hard to tell what the truth was. I can give the Senator my reaction, and ask him whether his reaction is not the same. My reaction was that there are distortions in the bill. At the same time, there are many parts of the bill that sound good, but which mislead people, because no one tells them that just around the corner, so to speak, is lurking a philosophy that is contrary to our Anglo-Saxon sense of justice, particularly the criminal penalty, without the right of trial

by jury. Does not the Senator agree with me?

Mr. STENNIS. Absolutely. That is a mild statement of the danger in the bill.

Mr. SPARKMAN. I mentioned that as an example. Is not the bill full of things like that?

Mr. STENNIS. Yes. The argument is made in favor of the bill—and the Senator doubtless has heard the argument—*that certain* things will not be done. It is said that the power will not be used. The fact remains that the power is there; and the power will be used. Most of the powers in Federal agencies are used. This particular power will be used, because pressure will be brought to force its use.

Mr. SPARKMAN. There is a great deal of talk about the power that is given to one man. Does the Senator remember that President Kennedy, in his news conference last July, spoke on this subject? I believe the Civil Rights Commission had recommended that this proposal be approved.

Mr. STENNIS. Yes.

Mr. SPARKMAN. President Kennedy was asked about it, and he said, first of all, that the President did not have the power to do these things; second, that no President ought to have such power. He did not use those exact words, but that was the meaning of what he said. Is not that the Senator's recollection?

Mr. STENNIS. That was at a news conference, at which the President quickly and frankly gave the reply which the Senator from Alabama has given us in substance.

Mr. SPARKMAN. It would be too much power for one man to have. Is that correct?

Mr. STENNIS. Yes. I thank the Senator from Alabama for his questions.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. JORDAN of North Carolina. I was very much interested in what the Senator from Alabama said about confusion in the bill. Like other Senators, I have had people come to me to talk to me about the bill. One intelligent group of people came to me and said they wanted me to support it. I said, "What is in the bill?"

"Well," they said, "it is the civil rights bill."

I said, "What is in it?"

They did not know. They were for it, though. I said, "I will give you a copy of it, and I want you to study it and give me answers with respect to all 11 sections."

Later, one of them called up and said, "We don't understand it."

I said, "That is a good reason why you should not ask me to support something that you do not understand, and nobody else understands. You do not understand the implication of what it can do, and what it might do."

What I have said is not an isolated case. A great many people have said "a civil rights bill must be passed." They do not know what is in the bill.

Mr. STENNIS. That is generally true. The Senator has put his finger on the outstanding problem. Consider the Gallup poll, for example. In it people are asked, "Are you in favor of the civil rights bill?"

Everyone wants to have civil rights. I am in favor of civil rights. So a person will answer the question: "Yes; I am in favor of it." At the same time he does not know what is in the bill. He does not know that it would grant all this power to Federal departments and agencies.

Congress is asked to give away its legislative authority, and to dodge its responsibilities in a carte blanche bill that would give vast power to departments and agencies over all the money spent now and hereafter. People do not know that a little manufacturing plant or small businessman would be put out of business by taking away from him the right to hire and fire. They do not understand the Federal Government would dictate which employees he could promote. Federal agents would be looking over his shoulder all the time. People do not realize that that is what this civil rights bill would do if it is enacted.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. I ask the Senator if it is not true that one of the most valuable civil rights a person possesses is the right to hire people who he thinks will help him to be a success in business?

Mr. STENNIS. Certainly.

Mr. LONG of Louisiana. I ask the Senator if the bill does not undertake to deny a man the right to hire a person who he thinks is best for his business?

Mr. STENNIS. It certainly does. One of the great things about America is that people are willing to start at the bottom; and as they build up a little business, they surround themselves with people who want to make good. In that way the little business becomes larger, and our economy is strengthened. Through that process, which is part of the free enterprise system, we have become the most powerful nation in the world. It has long been considered to be a person's civil right to earn money, save some of it, and invest it into a business. A person also has the personal right to develop a skill and use it to make a living for himself and his family.

That is a personal right. He does not have to go to the Government to ask for it or to ask how he can exercise it. It is his right. When I was a boy there were some planer mills or saw mills in Mississippi. Some fine colored workmen operated the saws, the chains, and the carriage—as it was called. Those men were experts, and were in great demand.

They were Negro workers. White men did not have a chance to get those jobs. From time to time we would hear a little complaint about that. However, those Negro men were there because of their merit, because they were trained, because they were willing to train themselves. In that way they became experts. Some of those men developed a huge enterprise in timber products production.

Mr. LONG of Louisiana. I am sure the Senator has seen recent television programs, particularly one showing Mr. James Farmer, the integration leader who is the head of the Congress of Racial Equality, in which Mr. Farmer explains how his people go about blackjacking businessmen into hiring Negroes.

Mr. STENNIS. I have not seen any of those programs on television, but I have heard reports about them.

Mr. LONG of Louisiana. I saw one presentation in which Mr. Farmer explained how they go into a place of business. If they see some white persons working at typewriters, they say to the owner, "We want to see some Negro employees there at the typewriters." When the owner of the place says, "All right; bring me some colored girls who are qualified, and I will hire them," the people from this organization say, "That is not our problem. We want you to have colored girls there whether they are qualified or not. You qualify them. You will find some qualified ones. Otherwise we will put a picket line in front of your business and in front of every store you own."

I ask the Senator, If the bill were enacted and the law enforced fairly, would it not be against the law not to hire a colored woman even if a white woman were better qualified?

Mr. STENNIS. Of course; it certainly would be.

Mr. LONG of Louisiana. If the people who are to administer the law had the intellectual honesty and the moral courage to do what this outrage would demand, and actually required the hiring of a white woman because she was better qualified, and rejected the demands of Mr. James Farmer and the Congress of Racial Equality, what kind of position would the employer be in then? He would have Negro picket lines on his place if he did not hire the unqualified person, and he would have violated the law if he did not hire the person best qualified.

Mr. STENNIS. The Senator from Louisiana has accurately described the conditions which would confront many businessmen if this bill is passed. I have been amazed to learn the extent to which American business is already under duress and subjected to the probabilities of boycotts and other retaliatory steps.

Mr. LONG of Louisiana. Is not the right to work for a living a civil right?

Mr. STENNIS. Absolutely.

Mr. LONG of Louisiana. Suppose, as between Negro picket lines and the integration act, the poor businessman were run out of business. Would it not be true that every person who worked in that business would have been denied his civil rights, which include the right to work for a living?

Mr. STENNIS. That is correct. The employees would all go down with the proprietor if the business fails. They cannot work unless the employer makes the jobs possible.

Mr. LONG of Louisiana. Can the Senator give any indication of how much James Farmer will worry if a man is run out of business because he is situated be-

tween the Civil Rights Act, on the one hand, and Negro picket lines, on the other?

Mr. STENNIS. James Farmer will not worry about that at all. He is only trying to promote himself.

Mr. LONG of Louisiana. Mr. Farmer would then go to the next place of business and stir up the next outrage to put somebody out of business by stirring up dissension between whites and Negroes.

Mr. STENNIS. That is the way the pattern works. Not only would James Farmer be out to promote his own activities but, with all deference to the men and women who would be in charge of the administration of the FEPC, they would be out to make a quota. They would be out to make a showing and would want to get results and make a record for themselves. Then they could come to Congress and show, in black and white, the number of people forced into jobs as a result of their work in Mobile or Baton Rouge, or other cities. Does not the Senator from Louisiana believe that that would be the pattern? It would be the natural pattern of operations, would it not?

Mr. LONG of Louisiana. The Senator from Mississippi is correct. Furthermore, does not the bill contain provisions that would cause the Federal Government to hire lawyers to sue white employers, who must then hire lawyers to defend themselves, even though they are unjustly accused?

Mr. STENNIS. The Commission will find new ways to bring actions against employers for 50 years after the law is enacted. There are so many technicalities and possibilities buried in the language of this bill that will affect so many activities of American life that there will be enough lawsuits instituted to keep three generations of lawyers at work.

Mr. LONG of Louisiana. Suppose a man hires a lawyer to defend himself against his own Federal Government and is able to vindicate his position and prove that he is right. Does the bill provide that he shall be reimbursed for the cost of hiring a lawyer to defend his rights?

Mr. STENNIS. It certainly does not. In the Senator's illustration, the man would not be defending himself on a criminal charge that he violated any law. He would merely be defending himself for the operation of his own business, in the custom and manner he has always done, and which has been our system all along. It is not a criminal offense at all.

Mr. LONG of Louisiana. Suppose the man was right, and proved that he was right. He was sued by the Federal Government even though he had done no wrong. Yet he would end by losing a substantial amount of money in order to prove he was right and had done no wrong.

Mr. STENNIS. To avoid expensive litigation he would just employ whomever the Commission demands he shall employ.

Mr. ERVIN. Mr. President, will the Senator from Mississippi yield to me for some observations, provided that he may do so without losing his right to the floor, and that when he resumes his remarks they will not be counted as a second speech?

Mr. STENNIS. Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina to enable him to make some reasonable comment, and that I not be charged with losing the floor or with a second appearance on the bill when I resume my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ERVIN. I ask the Senator from Mississippi if his experience in studying the bill has not been similar to mine, in that every time he studies the bill he finds some other legal trick in it.

Mr. STENNIS. Absolutely. I found one on Sunday that is as broad as it is possible to be in the English language.

Mr. ERVIN. Does not the Senator from Mississippi recall that in 1957 Congress considered the so-called Civil Rights Act, which contained title III, which permitted the Attorney General to bring suit in any case on an allegation of denial of the equal protection of the laws based on race?

Mr. STENNIS. The Senator is correct. Title III was voted out of the bill in the Senate. It was rejected.

Mr. ERVIN. Has the Senator from Mississippi heard a single proponent of the bill say anything to indicate that title III was sneaked in by means of one of the legal tricks that the bill contains?

Mr. STENNIS. They did not know about it in the beginning. It was not known when the authors of the bill signed it. I venture to say there was not a single one of them who knew that this provision was in the bill.

Mr. ERVIN. I invite the attention of the Senator from Mississippi to section 302 of title III, which purportedly refers to desegregation of public facilities.

Section 302 appears on page 13. It reads as follows:

SEC. 302. Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action. In such an action the United States shall be entitled to the same relief as if it had instituted the action.

I ask the Senator if the Attorney General, by the subterfuge of having an individual or a corporation first institute an action alleging denial of the equal protection of the laws on account of race, cannot under this provision undertake to litigate a claim of any individual or corporation to the effect that they have been denied the equal protection of the laws.

Mr. STENNIS. The Senator is undoubtedly correct. With the little limitation which the Senator mentioned, title III is not very effective. It has no relation whatsoever. In other words, the title affects the entire bill. It should be a title within itself. It has no relation to the public citizens.

Mr. ERVIN. Cannot a claim of denial of equal protection of the laws under the 14th amendment be made in any case in which the law of any State is applied to any individual in any relationship in life?

Mr. STENNIS. There is virtually no limit. Some basis for acclaim could be made in any instance.

Mr. ERVIN. I ask the Senator if section 302 of title III on page 13 would not permit the Attorney General to bring a suit to obtain a fishing license for any man who had been denied a fishing license by any State warden?

Mr. STENNIS. It is that broad, if he alleges there was a denial of the equal protection of the law because of race or religion.

Mr. ERVIN. This title opens the door to the Attorney General to bring a suit in every case in which State action is taken in respect to any individual?

Mr. STENNIS. Yes; that is correct—any individual.

Mr. ERVIN. Provided he makes the allegation that it is on account of race, color, religion, or national origin?

Mr. STENNIS. Yes. I should like to ask the Senator a question along this line. If a claim of a 14th amendment right was involved, is not this language broad enough to enable the Attorney General to intervene in a damage suit in which it was alleged that employees of a city had injured a man, and the man was suing merely for money relief? Could not the Attorney General intervene under this feature of the bill?

Mr. ERVIN. Yes.

Mr. STENNIS. It is even possible that the Attorney General could even alter the nature of the action, is it not?

Mr. ERVIN. The Attorney General could intervene under this section in a private, individual suit and absolutely change the whole nature of the action. He could do that against the will of a private individual.

Mr. STENNIS. Yes; and he would be a party to the suit, once he got into it.

Mr. ERVIN. Can the Senator from Mississippi imagine any more tyrannical act on the part of Government than to pass a law which would allow the Attorney General to take a man's own lawsuit away from his control?

Mr. STENNIS. No, I cannot. In effect, this part of the title would allow the Attorney General to go into court and to control the private individual's suit.

I am glad to have the views of the Senator from North Carolina on this point. I had not gotten around to examining title III carefully until the last few days. But when I read section 302, I could scarcely believe my eyes.

Mr. ERVIN. Section 302 was called to my attention only today. I had given much study to the bill, but I had overlooked section 302. I find that it would give the broadest possible authority to the Attorney General, and the result could be practically to destroy the system of Government in the United States. The Attorney General could intervene in every lawsuit in the Nation which might be brought by persons who alleged they had been denied, by State action, equal protection of the laws, on account of race or color, because such allegations and suits could cover all the activities of the municipalities and of

the school districts and of the sanitary districts, and all other kinds of State and local government in the United States.

Mr. STENNIS. Yes—and including even the water departments.

Mr. ERVIN. Oh, yes.

Mr. STENNIS. In that way, through his power to seek injunctive relief, an entire city could be brought under the control of the Attorney General.

I understand that segments of the press have only today discovered this section and realized what it means, and are making inquiry as to whether the section is as broad as we say it is.

Mr. ERVIN. I must confess that is the way section 302 was called to my attention, because I had assumed that the men who drew up the bill had sufficient intellectual honesty in drawing it up to correctly describe in the captions of the titles the provisions of the titles. But now we find that instead of being confined to public facilities, this section would embrace all the laws of all the States which touch any individual, provided there was an allegation that he had been denied the equal protection of the laws on account of race, color, creed, or national origin. Of course such a claim could be made by anyone, because everyone belongs to some race, and most people have some kind of national origin, and most people have some creed.

Mr. STENNIS. Yes.

Mr. ERVIN. So this section would open the doors for the Attorney General to assume direction and control of all the States and all the counties and all the municipalities and all the districts of all kinds throughout the United States.

Mr. STENNIS. I think the Senator from North Carolina is correct; and in the course of my speech I shall touch further on this point.

Let me ask whether the Senator from North Carolina finds in title III any kind of limitation on section 302. It is not clear and certain that the section would be without limitation, and would be the law of the land, and would not be confined to the public facilities which is the subject matter of title III?

Mr. ERVIN. Oh, yes; this section would cover the whole waterfront; it would cover every activity in which the law of a State is applied to any individual, corporation, or firm. That shows how broad this section is.

Mr. STENNIS. Naturally, one would think the section would be written in such a way as to limit its application to this title of the bill. Instead, we find that the section is not limited in any way; is it?

Mr. ERVIN. That is correct; it is entirely unlimited.

Mr. STENNIS. I thank the Senator from North Carolina for his contribution.

Mr. ERVIN. I thank the Senator from Mississippi for yielding. I wished to inquire of him about this section.

I have also been very much interested in the Senator's discussion of the FEPC section of the bill. I wish to ask him why it is that those who appear to be so greatly concerned with the proposed FEPC and the amount of unemployment among the Negroes in the United States are not equally concerned with the lack of employment among persons of Caucasian ancestry in the United States.

Mr. STENNIS. That has not been brought out in the course of the debate.

Mr. ERVIN. Does not the Senator from Mississippi agree with me that any man who is without employment is in an unfortunate position, and that that is true of members of the Caucasian race as well as it is of members of the Negro race, and that the proponents of the bill should manifest some concern because of the fact that in the United States today four white men are out of employment for every Negro who is out of employment?

Mr. STENNIS. Absolutely so.

A few minutes ago the Senator from Louisiana stated that if all initiative were to be cut off and if all employers were put in a straitjacket and were to be controlled and to have their every act scrutinized at every turn they would make, and if they found that they had to take the chance of being prosecuted or having their contracts canceled, there would not be many U.S. employers left; men simply would not go into that field of activity; and then there would be many fewer jobs and many more unemployed.

Of course, we all want the people of the United States to be employed to the greatest extent possible.

Mr. LONG of Louisiana. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. LONG of Louisiana. Is it not correct that anyone who had to defend himself against the Attorney General of the United States, when the Attorney General walked into court and said, "I am here in court, representing the United States of America," would find that he has been placed at a considerable disadvantage in attempting to defend himself, even though theoretically both would be supposed to stand on the same basis?

Mr. STENNIS. Of course that would put him at a tremendous disadvantage. The practical effect would be that most men in that situation would surrender before they got into court.

Mr. LONG of Louisiana. Is it not also true that every judge knows that if at some time in his life he hopes to have a chance to be promoted, the Attorney General will have to give him a favorable recommendation; and in that situation, would not a man who had the Attorney General suing for him have a considerable advantage?

Mr. STENNIS. Of course he would. In fact, in such cases, the intangibles would be more powerful than the tangibles.

Mr. LONG of Louisiana. The Senator from Mississippi has been a judge and a lawyer, and he knows how that situation would develop. As a lawyer, I have had the privilege of representing colored clients, and I have also had the privilege of representing white clients. In Louisiana, we have a means of suing someone that is called "in forma pauperis." It is a good way for a plaintiff to avoid legal expenses in connection with a lawsuit; all he has to do is go into court and say that he does not have enough money to be able to sue, and then he can initiate his suit without any expense to himself. On the other hand, one who has saved his money and who is named as a defendant in such a case must pay the costs of the suit all the way along; is not that correct?

Mr. STENNIS. Of course it is correct; and in such a situation a defendant is at a very great disadvantage.

Mr. LONG of Louisiana. Such a plaintiff would not have to worry about the court costs or the attorneys' fees; on the other hand, the defendant would then be at a very heavy disadvantage—entirely aside from the fact that even if he won the case, he still would have to pay his lawyer, just to get out of that trap.

Mr. STENNIS. Absolutely so. And even if the defendant happened to win the case, he could find himself confronted with another suit of that sort the very next day, and thus brought back into court.

Mr. LONG of Louisiana. Furthermore, the Senator from Mississippi realizes, does he not, how persistent the Attorney General can be when he thinks someone should be put in jail? For instance, the Attorney General prosecuted Hoffa in a series of cases; and whenever Hoffa finished defending himself in one case, the Attorney General proceeded to have Hoffa brought before another jury; and that series of lawsuits instituted by the Attorney General continued almost throughout Hoffa's terms of office.

Mr. STENNIS. Mr. President, among these are loans by various Federal agencies, including the Farm Credit Administration; the Federal land banks; school lunch program funds; Hill-Burton hospital funds; highway construction funds; child welfare services; grants and loans for school and college construction; old-age assistance; funds for aid to the blind and disabled; vocational education funds; and a host of other programs and activities too numerous to mention.

I am quite aware that there is some disagreement as to the Federal programs and activities which would be affected and covered by the provisions of sections 601 and 602 as they are presently written.

In referring to sections 601 and 602, I refer to those sections as they appear in title VI of the bill. As I shall hereafter point out, there is no unanimity—not even among the proponents of the legislation—as to the precise interpretation to be given these sections when one is construed with the other. As a matter of fact, and in order to make a full disclosure, some supporter of the bill should come up with a comprehensive list spelling out precisely which programs of Federal financial assistance would be affected if title VI becomes law, and, equally important, just how they would be affected. The Senate should have this information before it is called upon to vote on this bill.

Section 601 covers "any program or activity receiving Federal financial assistance." Section 602 refers to "any program or activity by way of grant, loan, or contract other than a contract of insurance or guarantee." It thus appears

that section 601 is much broader than section 602. Section 601 says that the programs affected by the bill include "any program or activity receiving Federal financial assistance." Section 602 excludes "contracts of insurance or guaranty." Section 601 is just as broad, if not broader, than the words of the original administration bill which were directed at "any law of the United States providing or authorizing direct or indirect financial assistance for or in connection with any program or activity by way of grant, contract, law, insurance, guarantee, or otherwise."

Mr. President, I wish to emphasize that point. No one of the proponents, so far as the Senator from Mississippi has been able to find out, has given a definition of the words "Federal financial assistance." What is "Federal financial assistance"? One very easy illustration of it would be the school lunch program.

What about an agency of the Federal Government whose funds are appropriated by the Congress? It expends Federal funds only. Would the mere spending of the money appropriated for that agency of the Government be "Federal financial assistance"?

What is "Federal financial assistance"? What agencies of the Government would be included under sections 601 and 602 and which ones would not? What programs to which the Government contributes would be included and which ones would not? No one has given any comprehensive list to us. I do not believe broader or more uncertain language could be written into any bill than merely to refer to programs receiving Federal financial assistance.

About the kindest thing that one can say about section 601 and section 602, taken together, is that they create a clear and manifest conflict on the face of the bill. They are calculated to confuse rather than enlighten. No one has told us precisely which programs of Federal financial assistance title VI would affect. The difficulty with which anyone is confronted in trying to determine what programs title VI covers is graphically illustrated by a discussion which I had on March 13 with the Senator from New Jersey [Mr. CASE] and the Senator from Minnesota [Mr. HUMPHREY].

This discussion was directed to the question of whether section 602, in excepting a "contract of insurance or guaranty," also placed similar limitations on the general terms of section 601. As to this the Senator from New Jersey said: "I would say they do not." He also said:

> I wish to make it clear that the words and provisions of section 601 and the substantive rights established and stated in that section are not limited by the limiting words of section 602.

The Senator from Minnesota subsequently said:

> I respectfully disagree with the Senator from New Jersey. * * * It is my opinion that these excepted activities are not covered by title VI.

The Senator from New York [Mr. KEATING] joined in to say:

> I wish to associate myself with the very careful analysis made by the Senator from New Jersey and say that I agree with him thoroughly. If the bill does not mean what he has indicated it means, it ought to be made to mean so.

Mr. President, this is a clear illustration of total disagreement between leading proponents of the bill as to the meaning of section 601 and section 602.

It is another illustration of how broad and sweeping the bill is. It is written in very general language. As I said, there will be litigation for three generations of lawyers. But that is not the full tragedy of it. The man who is doing business with the Federal Government will not know what it means. His lawyer will not know what it means. Senators or Members of the House will not know what it means. The courts will have to chart the course, and they can only decide one case at a time.

It is very clear, of course, that these three distinguished Senators are equally ardent and fervent in their support of H.R. 7152 and civil rights legislation generally. The point is: If they cannot agree among themselves upon the proper interpretation of this important and far-reaching title, how can they expect anyone else to be certain what it means? Is it fair to criticize the advertisement in question because it gave a construction to title VI which is little, if any, broader than the construction placed on it by the Senator from New Jersey and the Senator from New York ? All of this merely indicates that we have under consideration a bill which is so imperfect and so marked by patent ambiguity that equally well-informed and well-intentioned individuals disagree upon its proper interpretation even though they are on the same side of the fence.

However, some of the bill's proponents, at least, have reconciled to their own satisfaction the conflict between section 601 and section 602. The Senator from New Jersey [Mr. CASE] in discussing section 601 on March 13, 1964, referred to a published criticism of the House-passed bill. This criticism was "that the effect of title VI would be to limit the existing power of the President in regard to the cutoff of Federal funds for federally assisted programs in which discrimination on the grounds of race, color, sex, creed, or national origin existed."

Then the Senator from New Jersey said:

> I raised this question recently with Department of Justice representatives. I was assured that their interpretation—and the intention of Members of the House, as they understood it, was that the effect of title VI was not so to limit the President's existing power.

The Senator from New Jersey also said:

> I am very frank to state that section 601 which is a statement of substantive right—the substantive right of individuals, of persons, not to be discriminated against or excluded from participation in or denied the benefits of any program or activity receiving Federal assistance—means exactly what it says. It does not provide a method of enforcement by itself; but I suggest that it is complete; * * *

Such was also the reasoning of Congressman CELLER, the chairman of the Judiciary Committee of the House of Representatives, on the floor of the House on February 7, 1964, when he offered the amendment to except from section 602 "a contract of insurance or guaranty." In response to a question about the effect of this amendment, he stated: "Title VI has no effect over Presidential orders."

Therefore, it appears that some of the leading proponents of this legislation are saying—and this is highly important—that the amendment adopted by the House of Representatives would remove only from the application of section 602 contracts of insurance or guarantee such as those involved in FHA and GI loans, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and Federal Crop Insurance Corporation. At the same time, they are saying that these and other programs are still covered by section 601 and can be reached by Presidential Executive orders which would be fortified by, based upon, and impliedly authorized by the declaration of intent contained in section 601.

I do not think there is anything more important in the bill than this. We should know exactly what noose we are putting our necks into when we accept section 602, with its limitations, and believe that those limitations also apply to section 601. Representative CELLER says they will not apply. The Senator from New Jersey [Mr. CASE] says they will not apply. The Senator from New York [Mr. KEATING] says those words of limitation in section 602 will not apply to section 601.

Let us remember that under section 601 it matters not whether or not the "Federal financial assistance" is by way of grant, loan, guaranty, or insurance. "Any program or activity receiving Federal financial assistance" is covered by section 601. This is very comprehensive and far reaching and in conjunction with the interpretation placed upon it by the bill's sponsors, it certainly makes legitimate the statement in the advertisement that $100 billion is involved.

In addition, the language of section 601, in conjunction with the interpretations I have discussed, constitutes full justification for the advertisement's assertion that:

> It [the bill] 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.

Let me again emphasize the broad, sweeping, and general language of section 601. It is applicable to "any program or activity receiving Federal financial assistance." Given its literal and unrestricted interpretation, it can be made to apply to every Federal program or activity involving the expenditure of tax dollars or other Federal funds. Suppose the executive department decides to stretch the power which it acquires under section 601 to reach social security payments, veterans' benefits, and civil service pensions. It is readily and easily conceivable to me, in the light of the rather bizarre and far-reaching decisions of Federal courts in recent years, that this action may receive judicial approval.

I do not say that section 601 should be stretched to this extreme. I hope it will never be. I do say, however, that there is a reasonable and sound basis for an argument that this will come about.

Can social security, veterans' payments, and civil service pensions be construed as being a part of a program of "Federal financial assistance?"

Let us take a look at the statutes and decisions. The legislation establishing Federal old-age, survivors, and disability insurance benefits provides for annual appropriations to an "insurance trust fund out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of" specified taxes levied and collected under the Internal Revenue Code—act of August 14, 1935, c. 531, title II, section 201, 49 Stat. 622, as amended; 42 U.S.C. 401.

The nature of the social security program was discussed in *Helvering* v. *Davis*, 301 U.S. 619 (1937), upholding the constitutionality of the titles of the act providing for Federal old-age benefits and authorizing appropriations to an old-age reserve account, and providing for excise taxes on employers and income taxes on employees, where the Court said—idem 635–636:

> Title VIII, as we have said, lays two different types of tax, an "income tax on employees," and "an excise tax on employers." The income tax on employees is measured by wages paid during the calendar year. Section 801 (42 U.S.C.A. sec. 1001). The excise tax on the employer is to be paid "with respect to having individuals in his employ," and, like the tax on employees, is measured by wages. Section 804 (42 U.S.C.A. sec. 1004) * * *. The proceeds of both taxes are to be paid into the Treasury like internal revenue taxes generally, and are not earmarked in any way (sec. 807(a), 42 U.S.C.A. sec. 1007(a)).
>
> The first section of this title creates an account in the U.S. Treasury to be known as the old-age reserve account (sec. 201 (42 U.S.C.A.; sec. 401)). No present appropriation, however, is made to that account. All that the statute does is to authorize appropriations annually thereafter, beginning with the fiscal year which ends June 30, 1937.

Similarly in *Chas. C. Steward Mach. Co.* v. *Davis*, 301 U.S. 548, 574, 585 (1937), decided the same day and upholding the titles of the Social Security Act relating to unemployment taxes, the Court said:

> The proceeds, when collected, go into the Treasury of the United States like internal revenue collections generally. Section 905 (a), 42 U.S.C.A. 1105(a). They are not earmarked in any way.
>
> The proceeds of the excise when collected are paid into the Treasury at Washington, and thereafter are subject to appropriation like public moneys generally.

Thus, though the money for social security payments comes from employers and employees, it is collected by the Government as taxes, which are paid into the Treasury and not earmarked in any way. It can logically be argued that this program, being financed by Federal tax money, is one which receives "Federal financial assistance." Even though the application of section 602 to social security insurance benefits may be more doubtful, it is altogether possible that they can be reached under section 601.

There is at least a great—and probably greater—possibility that veterans' payments and civil service pensions can be similarly reached.

Certainly under the arguments which have been made by proponents of the bill, section 601, but not 602, could and would reach the insurance or guaranty programs of the Federal Housing Administration, the Veterans' Administration, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Crop Insurance Corporation. Whether such programs be covered by rule, regulation, or order of Federal agencies, or by Presidential Executive orders is relatively unimportant. Federal control and regimentation is the same whether it arises from statute, rule, regulation, or Executive order.

These points are of a vital nature. Some of the legal questions to be decided will determine how far down the Government will go to reach the individual. Certainly, it is plausible, under the argument of some of the proponents of this measure, that section 601, under which broad Executive orders can be issued, is not limited at all by section 602. If that is true, it brings into the picture the Federal Housing Administration, the Veterans' Administration, the Federal Deposit Insurance Corporation, and similar groups which might be excluded under the House amendment to section 602.

This is a most vital point. The advertisement was justified in concluding as it did concerning the vast power in section 601. We must remember that it is power we are dealing with, power that the Congress would be giving to the executive branch.

Let me point out in this connection, since we are talking about a "$100 billion blackjack," that the 1961 report of the U.S. Commission on Civil Rights states that at the end of 1960 federally supervised financial institutions held $100.3 billion in nonfarm residential mortgage loans. Here is the $100 billion mentioned in the advertisement in just one package.

I wish to illustrate, with reference to sections 601 and 602, the far-reaching effects of the Executive orders, and the far-reaching nature of the regulations which might be established under section 602.

I believe the Senator from South Carolina [Mr. THURMOND] has a matter he wishes to bring to my attention, and I am glad to yield to him at this point for that purpose.

Mr. THURMOND. I thank the distinguished Senator from Mississippi. I presume the Senator recalls that there was some intimation on the floor of the Senate to the effect that a Mr. Lloyd Wright, past president of the American Bar Association, had received compensation for the work he did on the so-called civil rights bill.

Mr. STENNIS. I recall the allegation.

Mr. THURMOND. I should like to read a telegram which I received from Mr. Wright. It comes from Los Angeles, Calif., and reads:

> Press carries story that KUCHEL inferred I was employed by Coordinating Committee for Fundamental American Freedoms, Inc. The truth is I am not a member of this organization. I was never employed by anyone to contribute to the analysis of the civil rights bill but felt compelled to do so as a citizen who believes in the Constitution and who loathes public servants, whoever they be, who pretend to uphold the Constitution and then at the first expedient moment vote to abandon it. You may use this to correct the RECORD if you wish.

It is signed by Lloyd Wright.

Mr. STENNIS. I thank the Senator.

Mr. THURMOND. I thought in justice to Mr. Wright this information should be embraced in the RECORD.

EXISTING EXECUTIVE ORDERS

Mr. STENNIS. Since experience is the best teacher, we can gain some appreciation of the future under title VI by considering the Executive orders which are presently in effect without the statutory sanction that would be provided by sections 601 and 602. Let us not doubt these existing Executive orders foreshadow the nature of the "rules, regulations or orders" which may be issued by Federal departments and agencies under section 602, and the additional Executive orders which could come under section 601. The simplest device would be a requirement that the "recipient" sign an agreement not to "discriminate" in any activities supported in whole or in part by the proceeds of the "Federal financial assistance," upon the penalty of "the termination of or refusal to grant or to continue assistance under such program or activity." That is the mildest form which it could take.

From Executive Orders No. 11063 and 10925 we can sense the interpretation and effect which will be given section 601 and 602 if they should become law. We also can determine the nature of the Executive orders which will be possible under section 601 and the nature of the "rules, regulations, or orders" which may be issued by the Federal agencies and departments under section 602. Let me discuss these Executive orders in some detail.

(1) EXECUTIVE ORDER 11063

This order was issued on November 20, 1962, although the right to use "discrimination" as a basis of regulation in housing was denied six times by Congress prior to the issuance of the order: In 1949, 95 CONGRESSIONAL RECORD, 4861; in 1953, CONGRESSIONAL RECORD, volume 99, part 1, page 1429; twice in 1954, CONGRESSIONAL RECORD, volume 100, part 4, page 4488; twice in 1959, CONGRESSIONAL RECORD, volume 105, part 7, pages 8654 and 8833.

One important question is whether the authority granted in title VI will be exercised only to require nondiscrimination by the various agencies in the actual distribution and expenditure of Federal funds, or whether it will be utilized to control the actions of the "persons" who are the actual "recipients" of the funds. Will Federal control and dictation extend to the borrower, the farmer, the homeowner, the local school, the hospital, the bank, the myriad other recipients of "benefits" under "activities or programs" receiving "Federal financial assistance?" Even a quick look at Ex-

ecutive Order No. 11063 and its philosophical basis makes it conclusive that this will be done if the pattern set by this order is followed. There is no reason to believe that it will not be so followed.

Executive Order No. 11063 was issued to prevent alleged discrimination because of "race, color, creed, or national origin" in the administration of programs involving housing owned or operated by the Federal Government or provided by loans made or insured by the Federal Government. But it did not stop there. Under its language Federal control is extended to homeowners, realtors, building and loan associations, contractors, and banks, to quote the words of the order, as to:

(a) The sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use) or in the use or occupancy thereof.

Under the broad language of the order when Joe Doe and Mary Doe buy a home and use a FHA or a GI loan to finance their purchase, Federal control extends not simply to the agency administering the program, but it dictates first to the realtor who develops the land; second, the contractor who builds the house; third, the bank which makes the loan; fourth, the realtor who sells the home; fifth Joe and Mary Doe, the owners, in the "use and occupancy thereof," in the "rental" of their home, in the "leasing" of their home and in the "sale or other disposition" of their home.

What are the penalties provided in Executive Order No. 11063? Section 301 of said Executive order authorizes the Federal agency to—

(a) cancel or terminate in whole or in part any agreement or contract with such person, firm, or State or local public agency providing for a loan, grant, contribution, or other Federal aid, or for the payment of a commission or fee;

(b) refrain from extending any further aid under any program administered by it and affected by this order until it is satisfied that the affected person, firm, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this order, and any nondiscrimination provisions included in any agreement or contract;

(c) refuse to approve a lending institution or any other lender as a beneficiary under any program administered by it which is affected by this order or revoke such approval if previously given.

Where a Federal agency is given the power to "cancel or terminate an agreement for the payment of a commission or fee" when a home is built, purchased, sold, leased, or rented, Federal control has reached the ultimate. Since Federal agencies eventually use their power to the utmost, there is every reason to believe that Executive orders issued under section 601 and "rules, regulations, or orders" issued under section 602 will be at least as severe and penal as the sanctions included in Executive Order 11063.

Mr. President, before leaving this Executive order, I should say that in addition to the other good things that can and will come out of this debate, the study of these Executive orders makes more Senators realize what is contained in the Executive orders, and understand just how far they go. It shows the control the Federal Government assumes over the homeowner in the building, renting, or leasing of a home when he accepts a loan from one of the agencies which were authorized originally to make veterans' and GI loans.

(2) EXECUTIVE ORDER NO. 10925

Executive Order No. 10925 was issued on March 6, 1961. Its stated purpose was to prevent discrimination on the ground of race, creed, color, or national origin in the various functions of the Federal Government and particularly in Government contracts. This will be reviewed to point out how far Federal control and dictation extends. It demonstrates that there is no intention simply to prevent discrimination in the administration of Federal programs, but to stretch Federal control to every person who is the recipient of any benefit of the program, however indirect such benefit may be. That is one of the gravest questions in the entire bill—the question of how far Federal control would go in reaching the individual person under sections 601 and 602, in spite of those limitations.

Under Executive Order No. 10925, if the X Construction Co. enters into a contract with a Federal agency to construct a building, Federal control is extended to the following persons who participate in or benefit from the work. These include:

First. The contractor and his employees. Within the scope of the order his handling of employees is federally controlled as to "employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

He is subject to Federal requirements concerning posting of notices, maintenance of records, examination and inspection of records, dealing with labor unions, subcontractors, and vendors or materialmen.

Second. The subcontractors and their employees. Section 301(7) provides:

The contractor shall include the provisions of the foregoing paragraphs (1) through (6) in every subcontract or purchase order * * * so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Third. Vendors or materialmen and their employees. They are subjected to control by the provisions just quoted as fully as the contractor or subcontractor.

Think of that, Mr. President. All the vendors or materialmen who might be selling to or dealing with contractors or subcontractors would thus come under the control of the Federal power reflected in this Executive order.

Fourth. Labor unions. Under sections 302 (c) and (d) and section 304, the contractor would be required to attempt to force any labor union with which he dealt to comply with the order; and the President's Committee on Equal Employment Opportunity would be given authority to take "remedial action" to force "any labor union * * * engaged in work under Government contracts" to conform to the Federal requirements.

Using Executive Order No. 10925 as a precedent under title VI, which would be applicable to every activity and program receiving "Federal financial assistance," we can anticipate that the rules and regulations authorized under that title would apply far beyond the agencies administering the programs. By Executive Order No. 10925 the Federal net has swept within its control not merely the agency administering the program, but also the contractor and his employees, the subcontractors and their employees, the materialmen and vendors and their employees, the labor unions and their members. With this as an established precedent, it is inescapable that Executive orders issued under title VI would be similarly sweeping.

Mr. President, it is true that the Executive orders I have been discussing are not set forth in the bill; but they are already in existence. They were not originated by the legislative branch of the Government, but by the executive branch of the Government. This shows how far reaching the bill would be if enacted. My argument is that under the power granted by sections 601 and 602 of title VI of the bill, Executive orders and regulations could certainly be as far-reaching as the existing Executive orders are now; they would not be limited to controlling discrimination or preventing discrimination. Such Executive orders could go even farther than the existing Executive orders go.

Under Executive Orders Nos. 11063 and 10925, does Federal control stop with prevention of discrimination by the State, local, or private agency administering the funds? Clearly it does not. Thus two very pertinent questions arise. They are:

Under section 601, would Federal control by new Executive orders end with the prevention of "discrimination" by the State, local, or private agency administering the funds?

Under section 602, would Federal control by "rule, regulation, or order" end with the prevention of "discrimination" by the State, local, or private agency administering the funds?

Is there anyone who, today, can unqualifiedly and categorically answer these questions in the negative?

Mr. President, the conclusion is inescapable that sections 601 and 602 would permit and result in action just as extensive and inclusive as that written into Executive Orders Nos. 11063 and 10925 if such action were deemed advisable by the executive department.

Let us remember that Executive Order No. 11063 inhibits discrimination by banks and savings and loan associations in administering housing programs; but also under penalty of cancellation, termination, foreclosure, blacklisting, and withholding, it dictates the actions of first, the realtor who develops the land; second, the contractor who builds the house; third, the bank which makes the loan; fourth, the realtor who

sells the home; fifth, and to the borrower-homeowner in the "use and occupancy thereof," in the "rental" of his home, in the "leasing" of his home, and in the "sale or other disposition" of his home.

Let us also remember that Executive Order No. 10925 inhibits discrimination in the administration of programs involving Government contracts; but also, under penalty of cancellation, terminations, blacklisting, and withholding, it extends Federal control to the contractor and his employees in their employment, promotion, demotion, transfer, layoff, termination, rates of pay, and selection for training; to the subcontractor and his employees, as well as to all such relationships; to the materialmen and their employees, as well as to all such relationships; and to the labor unions which deal with such contractors.

With Executive Orders No. 11063 and 10925 as a precedent and pattern, we may expect future Executive orders and rules and regulations issued if and when title VI is enacted—applicable to or issued by the banks for cooperatives, Federal land banks, Federal production credit associations, the Agricultural Stabilization Credit Corporation, the Federal Crop Insurance Corporation, the Agricultural Marketing Service, the Farmers Home Administration and the Soil Conservation Service—to inhibit discrimination in the administration of each applicable program; but also, under penalty of cancellation, termination, foreclosure, blacklisting, and withholding, to dictate to the farmer "participating" therein or receiving "the benefit" thereof as to, first, the contractor and his employees who build the home, dust the cotton, dig the ditches or clear the land; second, the "use", "occupancy" or "sale or other disposition" of the farm; third, the tenants upon the farm, that is, the "rental" or "leasing" thereof; and fourth, the "employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training" of all of his farm employees.

Mr. President, as I have said, with these two Executive orders as precedents, the rules, regulations, or Executive orders which might flow from this bill, if—unhappily—it were to become the law, would have complete grip and control of every minor phase and every major phase of all these contracts, agreements, programs, and agencies, from beginning to end.

Mr. JORDAN of North Carolina. Mr. President, will the Senator from Mississippi yield?

The PRESIDING OFFICER (Mr. BAYH in the chair). Does the Senator from Mississippi yield to the Senator from North Carolina?

Mr. STENNIS. I am glad to yield to the Senator from North Carolina.

Mr. JORDAN of North Carolina. Do I correctly understand, from the statement of the Senator from Mississippi, that the Executive orders which now are in effect already have such scope and power, without the consent of Congress and in the absence of such a law; and, therefore, the Senator from Mississippi contends that if the pending bill were to be enacted, almost anything could be done?

Mr. STENNIS. Yes, that is the pattern which has been established. Naturally, the Executive orders are prepared by the executive department and the Executive orders to which I have referred are already in effect.

So when we consider the pattern of conduct and operations which the Executive orders now in effect have set, we would be hiding our heads under the sand, like an ostrich—if we did not anticipate Executive orders or regulations, which would be authorized under the pending bill and touching on all the activities of the Federal Government.

Mr. JORDAN of North Carolina. That is my understanding of the effect of the bill.

Mr. STENNIS. Yes; and that is my point.

Mr. JORDAN of North Carolina. That is my understanding and my thinking about the subject.

Mr. STENNIS. It is something that is not recognized unless the bill is read most carefully. It will take many readings by the best legal minds to determine what is in this bill and what effect it will have on contracts or business operations.

Mr. JORDAN of North Carolina. The only activity that I believe the Senator did not mention was the funeral. I do not believe the Senater reached that point.

Mr. STENNIS. I moved my people out of the house before anything like that happened. It is amazing to learn how much within the grip of power and regulation these departments, once they start exercising power, will bring borrowers or anyone who is a recipient under a Federal program. The situation has reached the point at which, rightly or wrongly, Government programs cover a high percentage of the economic phases of our Nation. They cover a great part of our daily affairs, including not only our dealings with the Government, but also the ordinary ways in which we are making a living, and even our dealings with each other.

TOTAL FEDERAL CONTROL?

Under the heading "Total Federal Control"—an allegation which has been repeatedly made by many responsible persons in and out of the Congress—the advertisement asserts that the pending bill would:

First. Allow people to be jailed without trial by jury—titles I, II, III, IV, and VII.

It cannot be denied that the bill would have that effect. I will comment briefly on the titles specified.

Title I: This would amend the Civil Rights Act of 1957, as amended, and that act, as further amended, would leave in effect the power of the Attorney General to bring suits for restraining orders and injunctions against public officials and others. No jury would be permitted in civil contempt proceedings; in criminal contempt proceedings the statute would provide that no jury is permitted if the imprisonment is for 45 days or less and the fine is $300 or less.

I have cited present law. Any extension of authority by title I would bring about an increase, and more people would be brought under the operation of the law.

Title II: The Attorney General would be given new authority by section 204(a) to bring a suit for injunctive relief concerning public accommodations with the same power of the court to jail a defendant in contempt proceedings without a jury.

Of course, a civil contempt proceeding would not require a jury, but, as set forth in the Civil Rights Act of 1957, the statement applies to criminal contempt.

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

Mr. STENNIS. I am glad to yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Does the able Senator know of any provision in the Constitution to the effect that when a man is charged with a crime and the punishment is imprisonment for 45 days or less, or a fine of $300 or less, he can be tried without a jury?

Mr. STENNIS. There is no such provision in the Constitution. The Senator will recall that that provision was placed in the law in the Civil Rights Act of 1957. The original provisions of that act did not allow a jury trial. As the Senator remembers, there was a concession. Whether it was valid or not, a concession was placed in that act.

Mr. THURMOND. I ask the able Senator if the sixth amendment to the Constitution of the United States does not provide that, when charged with a crime, a man shall be entitled to a jury trial.

Mr. STENNIS. I am not certain as to the number of the amendment, but accepting the Senator's numbering as correct, that is undoubtedly true in the ordinary criminal case. The Senator is a good lawyer. As he knows, the law developed somewhat differently in contempt of court proceedings. A somewhat different rule of law has evolved. But as a common acceptation, especially when the law is applied to so many things in life—and the bill applies to many thousands of new situations—the question of jury trial which the Senator has raised becomes more and more important every year.

Mr. THURMOND. The purpose of a civil contempt proceeding is to bring about compliance with the court's order, is it not?

Mr. STENNIS. The Senator is correct. It is conceded that the court's most important function is the power of the court in the civil contempt field.

Mr. THURMOND. The purpose of criminal contempt is to punish.

Mr. STENNIS. The Senator is correct. That is a penal provision.

Mr. THURMOND. That is a criminal provision.

Mr. STENNIS. The Senator is correct.

Mr. THURMOND. Since I began talking with the distinguished Senator, I have obtained a copy of the sixth

amendment to the Constitution. The sixth amendment to the Constitution reads in part as follows:

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

The Constitution does not provide "in some cases." The language is, "in all criminal prosecutions." It does not provide that the accused "may"; it provides that "the accused shall enjoy the right to a speedy and public trial by an impartial jury."

If Congress can amend the Constitution, as it attempted to do in 1957, and provide that there shall be no jury trial if the punishment for a crime is 45 days or less, or a fine of $300 or less, why could not that provision be extended so that the time of imprisonment would be 6 months? Why could it not be extended to a year?

Mr. STENNIS. If it is to be considered a valid rule the Congress could then make the term of imprisonment imposed without a jury trial 5 years, 10 years, or even more.

Mr. THURMOND. Where would the limit be?

Mr. STENNIS. There would be no limit.

Mr. THURMOND. In other words, once we go beyond the provisions of the Constitution, there is no limit. If the term of imprisonment at which a man would not be entitled to a jury trial could be set at 45 days, the terms could be extended to 6 months, a year, 5 years, or 10 years. Congress could go to almost any lengths, under the theory which was expostulated when the Civil Rights Act of 1957 was enacted.

Mr. STENNIS. Unquestionably the Senator is correct in his conclusion. If the Court should uphold the provision relating to 45 days and $300 as valid within the Constitution, the lid would be removed. Congress would be supreme in that field.

Mr. THURMOND. Does not the Senator consider that the right of trial by jury, the absence of which was listed among the grievances in the Declaration of Independence as one of the reasons why we declared our independence from the mother country, is one of the most precious rights of the American people?

Mr. STENNIS. The Senator is undoubtedly correct. It is the basis for many rights. It is a great restraint upon the abuse of governmental power. It has proved to be sound even though there may be an occasional miscarriage of justice.

Mr. THURMOND. If we attempt to limit or restrict it, or attempt to amend the Constitution or the sixth amendment, as was attempted by the Congressional Act of 1957, are we not setting a precedent that will haunt us in the future, and are we not setting a precedent that can extend the denial of trial by jury to cases that involve a longer term or a larger fine?

Mr. STENNIS. Every time Congress, in effect, reenacts the provision of the 1957 act, it strengthens it, one might say. Actually it is an argument to the Court to sustain as valid the provision which Congress adopted.

Mr. THURMOND. The bill now before the Congress, which the proponents are asking be enacted into law, designated as H.R. 7152, contains 11 titles. Is it not true that title I denies trial by jury?

Mr. STENNIS. Yes. I was referring to title I.

Mr. THURMOND. Is it not true that title II denies trial by jury?

Mr. STENNIS. That is correct.

Mr. THURMOND. Is it not true that title III denies trial by jury?

Mr. STENNIS. The answer is "Yes."

Mr. THURMOND. Is it not true that title IV denies trial by jury?

Mr. STENNIS. The answer is "Yes."

Mr. THURMOND. Is it not true that title VII denies trial by jury?

Mr. STENNIS. The answer is "Yes." The Senator is correct. Five titles deny trial by jury.

Mr. THURMOND. In other words, five titles of the bill specifically deny the right of trial by jury, in violation of and in negation of the Constitution of the United States.

Mr. STENNIS. The Senator has correctly stated that there are five titles that deny the right of trial by jury. They would apply to innumerable instances, in various kinds of cases, and could include literally thousands of people within their reach, in a period of a few years.

Mr. THURMOND. If Congress should enact the pending bill, would it not be doing great violence to the Constitution of the United States, the framework of our Government, and infringing upon the precious rights that were reserved to the people by the Constitution of the United States?

Mr. STENNIS. Unquestionably. The Senator has correctly stated the situation. The amount of punishment is no valid basis for differentiating the types of contempt that would be subject to jury trial and those that are not. The Constitution either prohibits the denial of trial by jury or permits denial of trial by jury. The Senator's argument is certainly sound.

Mr. THURMOND. Does not the Senator hold that opinion in spite of the decision handed down by the Supreme Court of the United States yesterday, in which trial by jury was denied to the Governor and the Lieutenant Governor of Mississippi, the Senator's home State?

Mr. STENNIS. Yes; the right of trial by jury was denied and erroneously so.

Mr. THURMOND. I commend the Senator for his sound and logical analysis of this bill.

Mr. STENNIS. I thank the Senator. I appreciate his contribution to the debate, as well as his comments and questions.

I will continue with my statement on the titles of the bill which deny trial by jury.

Title III: The Attorney General is given new authority by section 301(a) to bring suit "for such relief as may be appropriate" affecting public facilities which would include injunctive relief, with at least the same power of the Court to jail a defendant in contempt cases without a jury. Note, in this connection, that the House refused to adopt an amendment which would have done nothing more than to make the Civil Rights Act of 1957 applicable to contempt proceedings under title III.

A special word should be said with reference to section 302 in title III. I call the provision I am about to read the biggest "sleeper" that is in this bill or that has been in any other bill that has come along since I have been a Member of this body. Section 302 provides:

> Whenever an action has been commenced in any court of the United States seeking relief from the denial of equal protection of the laws on account of race, color, religion, or national origin, the Attorney General for or in the name of the United States may intervene in such action.

Encompassed in those few words, in one sentence, in a little noticed title of the bill, we have what is almost the same thing as the old title III of the Civil Rights Act of 1957 that was fought out on the floor of the Senate and rejected after days of debate and after many recorded votes. The only difference is that section 302 gives the Attorney General only the right to intervene. Each time a majority vote sustained the position of those who proposed to strike out title III. It was stricken from the bill.

The question is: Is the Attorney General to be given unlimited power which would extend his right to intervene in litigation to every suit involving an alleged denial of a civil right?

As I said before, after a very fine debate in the Senate, the Senate declined to give that authority in 1957, and the House agreed to the Senate amendment. Now it is back before us in virtually the same form, except that an individual must start a proceeding in court. Of course, a person can always be found who is ready to file a suit.

The inducement for someone to start a lawsuit is very attractive. The provision that an individual must start the lawsuit means little or nothing.

The section provides that the Attorney General may intervene. When the Attorney General intervenes, he dominates and controls the case. That is what occurs. He could apply for all the injunctive relief that was deemed necessary; he might have other parties brought into the case. He could allege, with some plausibility, that other parties should be brought into the case and then be subjected to the injunctive process.

Even if it should be a suit for money damages, the Attorney General, under this provision, would be allowed to intervene if a 14th amendment right is involved. If so, he would dominate the case.

I can think of an instance in which, if a policeman of the city of New York, for example, were being sued on the basis of an allegation of a denial of some civil right, the Attorney General could intervene in that suit and bring in the chief of police, make him a party, and in effect put the whole police department on trial. That power would apply to the largest city or the smallest town

in the United States. It would apply to a county government. It would give complete authority to the Attorney General, if he wished to exercise the power we have been discussing.

The sentence I have read is just as applicable to every other title of the bill as it is to title III. I do not know why it was buried in this title. It applies to and beyond every title of the bill. That section has not been adequately debated on the floor of the Senate. It is a "sleeper." This morning I was asked by the press for an interpretation of it. Frankly, I studied and analyzed this section for the first time just 2 days ago. This is when I just realized how broad and sweeping it is. I believe it will be—and it should be—exhaustively considered and debated. I looked in vain at title III to find some kind of limitation that would keep the far-reaching language from applying to anything except title III, where it is actually found in print, but no such limitation exists. It apparently is not even confined to the subject matter of the bill which is under consideration.

Turning to title IV, the Attorney General is given new authority by section 407(a) to bring suit concerning schools "for such relief as may be appropriate," with at least the same power of the Court to jail a defendant for alleged contempt without a jury.

Without developing that further, I pass on to title VII, section 707(e), which provides that "the court may enjoin the respondent," in a suit filed by the Commission or a grievant with at least the same power of the court to jail a defendant for contempt without a jury.

My further comment upon this phase of the bill will be limited to a quotation from the views of Representative GEORGE MEADER, of Michigan, a member of the Judiciary Committee of the House, which appears on page 46 of House report 914:

> The undersigned—

He was speaking of himself, because he had signed this part of the report—

> is opposed to extension of the principle of enforcing public policy by injunction because this extraordinary and ever-expanding sanction deprives a citizen, when proceeded against by his Federal Government, of the protections guaranteed by the Bill of Rights of the U.S. Constitution designed to protect citizens from tyrannical behavior by government officials.
>
> * * * * *
>
> Such statutes authorize the U.S. Government, for the enforcement of the public policy promulgated, to institute in the U.S. district court a civil action for preventive relief including an application for a permanent or temporary injunction, restraining order or other order.
>
> * * * * *
>
> Such a decree is enforced by contempt proceedings in which there is no right to jury trial, and in case the defendant is found to be in contempt, he is punished by imprisonment at the discretion of the judge.
>
> The effect of the employment of this sanction of injunction rather than a civil action at law for the recovery of damages or the institution of criminal proceedings by indictment or information is that the defendant is shorn of most of the protections set forth in the Bill of Rights of our Constitution.
>
> In a criminal proceeding, for example, the defendant has all of the protections written into our body of criminal law such as (1) the presumption of innocence, (2) the right to be confronted by accusers, (3) the right of cross-examination, (4) the requirement that proof of guilt be beyond a reasonable doubt according to a body of well-developed rules of evidence, and (5) the right to trial by a jury of his peers.
>
> These protections either do not exist at all when the citizen is proceeded against by his government by the injunctive process, or they exist in a less adequate form.
>
> It was precisely because of the tyrannical behavior of the British monarchy and the British courts when proceeding against freemen that our Founding Fathers were led to incorporate protections and due process of law in the first 10 amendments to our U.S. Constitution commonly known as the Bill of Rights.

I wish to add a few thoughts by way of illustration.

In my younger days as a lawyer, I was district attorney; and I found it extremely difficult to obtain proof in many cases in which I thought the defendant should be convicted. On occasion, it was very difficult to obtain enough proof to convince the 12 men on a jury beyond a reasonable doubt. I sometimes get a little warm under the collar at the terrible requirements put upon the State.

In later years, when I served as a judge, I had an opportunity to look at the subject from a different point of view. I realized more fully the wisdom of the Bill of Rights, the soundness of its principles, and the great protection it affords our people.

Even though, sometimes, there are miscarriages of justice under the jury system, and mistakes are made, I am amazed at the accuracy and the soundness—which I have observed during my life—of the decisions which juries have made, even though they were untrained in the law.

Under present conditions when this kind of legislation is enacted, vast government controls enter more and more into the field of the everyday life of people. This bill, particularly, would literally reach into every factory. It would reach into every public agency and into local governments, into the school districts, the city governments, and the States. It would reach into every business establishment employing 25 or more people. It would reach into all the ramifications of the vast agricultural and educational programs of the Federal Government. It would reach into health, education, and welfare programs. It would reach into all the additional programs which we have added to the Federal Government during the past 30 years.

We see in all of these titles the roving power of the Attorney General's Office, which would be fully equipped, without any limitations, to apply and assert all the powers granted by the bill. He could do this even in cases where an individual has filed suit. In every such case the fundamental right to a jury trial would be taken away.

It is a much longer step than many who advocate passage of the bill realize. It is no answer to say that the power will not be used, and that it will not be abused. It is our responsibility to take note of the fact that it is power that Congress will be granting, and that it is power that will be used.

A great many people favor the general idea of civil rights—they say they favor this bill—but, when they really study it and realize its far-reaching application and its denial of basic constitutional safeguards, they reverse themselves and refuse to support it.

The advertisement also asserts that the pending bill 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).

There is no factual misstatement here. Section 501(g) brings forward and reenacts the following provision with respect to the Civil Rights Commission:

> No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than 1 year.

Those words speak for themselves. That is not a vital defect, but it is an extraordinary provision in the bill, and the advertisement, in very mild language, points it out.

The advertisement further states that the bill 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).

And—

> (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).

This is entirely a fair comment and completely legitimate argument.

The employer and employee are put under the strictest kind of regulations and conditions of Federal intervention. The employer is limited not only with reference to employment and as to discharging of people, but, more than that, even with respect to promotion. I do not want to see any employee discharged, I would like to see everyone keep his job as long as he deserves to keep it, whether the employer be the Federal Government or a little manufacturer on a side street; but both would be put in a position in which the employer could not discharge persons whose salary he pays. When that is done the employer will be affected very materially. It will be improperly and illegally interfering with the fundamental civil rights of employers. I do not want to see anyone fired without cause, but I believe that no employer should lose his rights to control those whom he has to pay.

Federal interference as to race, color, religion, sex, or national origin is authorized under title VII—the FEPC section. Where alleged discrimination is involved the Federal authorities or the Federal courts will make the final decision whenever race, color, religion, sex, or national origin is involved, in hiring, firing, pro-

motion or demotion, compensation, and privileges of employment.

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

Mr. STENNIS. I yield.

Mr. LAUSCHE. If race, color, or religion is not in involved, does the Federal Government, under the bill, have authority to step in and tell people what to do?

Mr. STENNIS. Under title VII the bill, alleged acts involving race, color, religion, sex, or national origin are covered. The Government would be limited to action involving these cases. I take it the Senator is inferring a privately owned establishment would not be affected otherwise.

Mr. LAUSCHE. Yes. If race, color, or religion were involved, the Federal Government would be able to step in and declare what should or should not be done. Is that correct?

Mr. STENNIS. Absolutely. That is the situation under the provisions of the bill. That is true, except also that an amendment was added to the bill on the floor of the House adding sex. Sex was not included in the original bill. I do not understand how anything could be broader.

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

Mr. STENNIS. I yield.

Mr. SPARKMAN. Does that mean that a religious sect or denomination, which operates a publishing house and naturally employs people of its own denomination or faith, would be subject to the Federal Government stepping in and telling the religious organization that it cannot do that?

Mr. STENNIS. A religious organization is excepted only so far as to that occupational qualification is reasonably necessary to the normal operation of that business. The religious publishing house cannot be assured any job will qualify as an exception. This is another example of how absurd the law is when its provisions are fully explored.

Mr. LAUSCHE. Why does it show on its face that it is absurd? They are permitted to discriminate on the basis of religion, are they not?

Mr. STENNIS. Under the terms of the bill, even a religious organization that is publishing literature of its own could not be assured it could hire whom it wished to hire, but would be required to perform under the Federal code, as it would be interpreted in that particular situation.

Mr. LAUSCHE. That would mean that a religious organization would be allowed to discriminate in choosing a member of its religion, and exclude members of other religions in employment.

Mr. STENNIS. The limitation provides that the employment to be exempted must be reasonably necessary to the normal operation of that particular business. No one knows how that will be interpreted.

Mr. LAUSCHE. It does raise the question as to whether by law we are making an exception that allows discrimination.

Mr. STENNIS. The Senator is correct.

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

Mr. STENNIS. I yield.

Mr SPARKMAN. Does not the proposal seem to confuse the entire issue? In the first place, it seems to me that when religion is included as the basis for discrimination, we are beginning to get pretty close to the prohibition against mixing government and religion. It is confusing both ways, both in the exemption that is provided in the amendment, and also in the provision that is in the bill.

Mr. LAUSCHE. I understood the Senator to say that in one breath the Supreme Court said that the Government shall not in any way pass laws which give preferential treatment to religion or allow rights to be determined on the basis of religion.

Mr. SPARKMAN. Yes.

Mr. LAUSCHE. And in the next——

Mr. SPARKMAN. In other words, that the Government cannot make that determination. It seems to me that that is true so far as the provision in the bill is concerned. When the amendment was adopted, it merely compounded the situation.

Mr. STENNIS. I agree with the Senator from Alabama that the situation was compounded.

Mr. SPARKMAN. It is true, is it not, that there is the provision relating to sex. It seems to me if the bill is to affect all these other matters sex is entitled to be one of the factors that should be included.

There are certain types of work in this country in which women are not employed. As a matter of fact, I believe that most States have laws prohibting the employment of women in certain types of work, and at certain parts of the day. Would this provision upset those laws?

Mr. STENNIS. It certainly would.

Mr. SPARKMAN. Would it upset those traditions and practices throughout the country?

Mr. STENNIS. It certainly would. The Senator has made an excellent point. The bill was amended in the House of Representatives to include the word "sex."

Mr. SPARKMAN. That is correct.

Mr. STENNIS. There were no hearings. There was no mature consideration of it. Laws of the States which prohibit women from being employed in hazardous employment were not considered.

Mr. SPARKMAN. Many States prohibit the employment of women on the graveyard shift.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. I believe most States provide against the employment of women in hazardous employment.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. Such employment would consist of the stringing of electric lines, for instance, digging coal, mining. I believe women are not employed in that type of work. I believe most States prohibit it.

Does the Senator understand that this provision in the bill would break that down?

Mr. STENNIS. Absolutely. There would be no exception. The word "sex" is written in the bill and would apply equally with race, color, religion, sex, or national origin in the hiring, firing, and promotion of employees. That is controlled.

Mr. SPARKMAN. On the subject of national origin, I suppose there are some protection and security provisions so that a company would not have to hire just anybody if he were a security risk or came from a certain area where he would be suspect. Is there any saving clause in the bill for that?

Mr. STENNIS. The Senator from Mississippi does not know of anything. Perhaps it might be included by interpretation.

Mr. SPARKMAN. In the case of a private company working on a very secret project, such as missile work, or in the space activity at the testing grounds in the State of Mississippi, would the private company not have any protection?

Mr. STENNIS. I do not find anything in the bill that would assure protection for such a company under those circumstances.

Mr. SPARKMAN. In the military field, the Government can protect itself. But a private concern could not protect itself.

Mr. STENNIS. No. A private concern would have no authority to protect itself. If the Equal Employment Opportunity Commission did not agree to the standards and requirements for the employee to meet, the employer would stand there unprotected.

Mr. SPARKMAN. The Senator mentioned setting up certain standards. Is not one of the many sections of the bill—it is hard to speak of it as a bill, because it is really 11 bills.

Mr. STENNIS. It is 11 bills.

Mr. SPARKMAN. Is not one of the weaknesses to be found in several places in the compound bills, the fact that standards are not set up in the law itself?

Mr. STENNIS. There are no guidelines. There are no definitions. It is left to the agencies concerned such as I mentioned in the title which allows the discontinuance of Federal assistance.

Mr. SPARKMAN. Yes. That is title VI.

Mr. STENNIS. What is meant in the bill by the term "Federal financial assistance"? No one knows what it means. There is no definition of it. No one is furnished a list of what will be in or what will be out of the bill with reference to such programs. People are very highly critical of the avertisement I mentioned because it made certain plausible arguments, I suppose, but no one gives us a bill of particulars.

Mr. SPARKMAN. The Senator may recall that in a speech I made while the motion to take up the bill was pending, I stated that we were tending, under the terms of the bill, toward a government of men rather than a government of laws. Does not the Senator think that that is a correct interpretation?

Mr. STENNIS. I remember that statement. The Senator is correct. I was impressed with his argument then. I am glad he has raised the point again.

Mr. SPARKMAN. When an agency makes a decision, I understand that it is not necessarily a final decision; but it is the recommendation of the agency, is it not?

Mr. STENNIS. The Senator is correct. In a great many instances, it will be the final decision.

Mr. SPARKMAN. From a practical standpoint, it will be the final decision. Is it not true that it will be a decision made by men?

Mr. STENNIS. That is correct.

Mr. SPARKMAN. Rather than in accordance with a law or by standards set forth in a law?

Mr. STENNIS. It will be a decision made under the general grant of authority that is written into the bill. We should never forget that because in most cases, whatever the agency says is the law will be the law of the land. The case will never get beyond that point. The same is true in court. Perhaps 96 or 99 percent of the cases tried in court never go beyond the trial judge. Whatever he rules in the case is the law to those people, because their cases will never go further.

Mr. SPARKMAN. In many instances, they cannot afford to appeal the cases.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. Often it is realized that the great weight of the judge's decision will probably stand as the decision in the case.

Mr. STENNIS. On page 35 of the bill, beginning on line 11, in the definition of "unlawful employment practice," this proposal makes an exception of persons who are members of the Communist Party or of any other organization required ot register as a Communist-action or Communist-front organization.

With respect to the question that was raised a few minutes ago, the RECORD should reflect something further. The Senator from Ohio [Mr. LAUSCHE] raised the point about religious organizations and businesses carried on by such organizations. I said I thought there was an exception. I find that at least one exception is covered on page 34, beginning in line 20, where the proposal reads:

> (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

That is the exception in the educational field. I do not believe there is an additional one.

Mr. SPARKMAN. If that is the only exception, would not the Senator from Mississippi agree with me that it would not cover the kind of case I cited; for instance, the case of a religious publishing house?

Mr. STENNIS. The Senator from Alabama is correct. If there is not an additional exception, a religious publishing house would not be covered.

In my opinion, also pertinent to the question is the text of the bill beginning in line 7, on page 35:

> (f) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to refuse to hire and employ any person because of said person's atheistic practices and beliefs.

In other words, in prohibiting all discrimination on account of religion or the lack of religion, the bill would exclude the refusal of an employer to employ a person because of his atheistic practices and beliefs. In dealing with constitutional principles, I do not understand how it would be possible to include one group, but to exclude the other, even though in the latter case a lack of religious belief was involved. Certainly in the Constitution there is no provision in regard to religious belief or lack of religious belief.

Mr. SPARKMAN. On the basis of the Supreme Court's decisions, does the Senator from Mississippi believe the Court ever would uphold that provision?

Mr. STENNIS. I do not believe the Court would uphold it.

Mr. SPARKMAN. Certainly, in keeping with the Court's decision in the Baltimore case and with another decision of the Court, it seems to me that provision could not be sustained as constitutional.

Mr. STENNIS. I agree.

Mr. SPARKMAN. Will the Senator from Mississippi yield, to permit me to ask a question on another phase of the bill?

Mr. STENNIS. I am glad to yield.

Mr. SPARKMAN. Yesterday, or perhaps on Sunday, there was published in the newspapers a large announcement or advertisement to the effect that 22 distinguished constitutional lawyers had certified that the pending bill is, in their opinion, constitutional. Of course, to certify that the bill—which really is 11 big bills, with many, many constitutional questions involved—is constitutional, is a rather broad certification; does not the Senator from Mississippi agree as to that?

Mr. STENNIS. I certainly do, for the bill is about as broad as could possibly be imagined.

Mr. SPARKMAN. I do not wish to ask this question in such a way as to imply that the Senator from Mississippi was not impressed by that endorsement; but I wonder whether he will comment on the following: Someone asked me what I thought of that statement; and I replied that those 22 gentlemen are eminent jurists or lawyers; but I believe that perhaps even more, just as eminent, who would state that the bill does contain unconstitutional provisions, could be found. Does the Senator from Mississippi agree?

Mr. STENNIS. I certainly do; undoubtedly it is true that an even larger number who would hold that the bill contains unconstitutional provisions could be found.

I do not now remember the names of very many of the group of 22; and I have not yet had a chance to examine their statement.

Mr. SPARKMAN. I only know that included were four former presidents of the American Bar Association. Of course, two former presidents of the American Bar Association have been quite outspoken in stating that they believe the bill is unconstitutional.

Mr. STENNIS. Yes.

Mr. SPARKMAN. So far as I know, the other former presidents of the American Bar Association have not expressed their opinions in regard to the constitutionality or lack of constitutionality of the bill; at least, I have not seen them quoted.

Included in the list of 22 are some law school deans; but how interesting it would be to learn what all the law school deans in the country would have to say on this point.

Does the Senator from Mississippi not agree that the question of constitutionality cannot be determined simply by obtaining the opinions of lawyers? Is it not true that we shall not know about the constitutionality of the bill until the Supreme Court speaks on that subject?

Mr. STENNIS. That is correct. Of, course, under our oaths as Senators, we have a special obligation to try to determine, as best we can, under the power we have, the constitutionality of the measures on which we vote; and we are required to determine that question in the affirmative before we vote in favor of the passage of a bill.

Mr. SPARKMAN. Yes.

The Senator from Mississippi has studied constitutional law, has he not?

Mr. STENNIS. Yes; but, unfortunately, most of the constitutional law I learned has since then been repealed.

Mr. SPARKMAN. But the Senator from Mississippi studied constitutional law; and he has practiced law; and, as a judge, he has also had constitutional questions before him many times; and, in addition, as a Member of the Senate he has dealt, here in the Senate, with constitutional questions. Does he believe that constitutional questions are involved in the bill?

Mr. STENNIS. Yes; many of them, including very many in connection with the title which deals with the proposed FEPC. I do not believe the Federal Government has such power. The Constitution clearly prohibits Congress from dealing with voting qualifications; the Constitution prohibits Congress from acting in that field.

Mr. SPARKMAN. That is true.

Of course I do not pretend to be the constitutional lawyer that the Senator from Mississippi is.

Mr. STENNIS. The Senator from Alabama flatters me greatly.

Mr. SPARKMAN. However, I did study constitutional law under one of the great constitutional law teachers of the country; and ever since I entered Congress, 22 years ago, I have been wrestling with constitutionality questions in connection with the enactment of proposed legislation. On the other hand, I do not pose as an expert in that subject. But I do say that none of us can state whether a provision is or is not constitutional until the Supreme Court has passed on it.

On the other hand, I do say that this omnibus bill includes many provisions—many provisions in the many bills included in this omnibus bill—which I believe to be unconstitutional.

Mr. STENNIS. Mr. President, the Senator from Alabama is eminently correct. I value his opinion, for I know he has a very fine concept of constitutional law, based on his distinguished congressional career, as well as on his studies.

We do find that a good many of the constitutional law principles we were taught have now been reversed, and no longer are regarded valid. But certainly the provisions of the pending bill are so far reaching and would extend so far beyond the power of Congress, that they are clearly invalid, constitutionally.

I thank the Senator from Alabama for the questions he has asked.

Mr. President, with Executive Orders Nos. 10925 and 11063 as precedents, it is entirely conceivable that "rules, regulations, or orders" which Federal agencies and departments would issue under title VI would include similar FEPC provisions—excepting, of course, provisions dealing with discrimination based on religion, which for some reason is not prohibited by title VI.

Title VI omits the word "religion." That is rather odd.

While employers brought with title VII by engaging in interstate commerce would be subject to the ultimate 25-employee exclusion, those subject to title VI—through participation in any program or activity receiving Federal financial assistance—would not be subject to this exception. Employers with one or more employees could be reached under title VI. That is a distinction.

(e)—

And I read further from the advertisement—

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 should be handled—it would deny this right (titles IV, VI, and VII).

Title IV—"Desegregation of public education"—would grant very little power to the Commissioner of Education, other than to survey and report concerning "the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States" and to render technical assistance to schools and school districts, to maintain training institutions, and to make grants for employment of specialists in integration. It would grant new powers to the Attorney General, as already mentioned. This is the title in which the House amended the definition of "desegregation" by adding the words "but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance."

Control of public and private schools and universities and colleges would result from the power to manipulate, control, and withhold Federal assistance and funds to which the institutions would otherwise be entitled. Thus, the power-packed provision affecting private and public schools and colleges is title VI. Few people realize the great variety of statutes which could and undoubtedly would be used to influence and control the action of the trustees of every school and college. Included in the laws which would be affected under title VI are the following:

First. Assistance to schools in federally affected areas, 20 U.S.C. 631–645; 20 U.S.C. 236–244.

Second. Assistance for elementary and secondary education, 20 U.S.C. 441–445, 481–484.

Third. Graduate studies, 20 U.S.C. 461–465.

Fourth. Students in institutions of higher learning, 20 U.S.C. 421–429.

Fifth. Mathematics, science, foreign language training, 20 U.S.C. 441–445.

Sixth. Cooperative research, 20 U.S.C. 331–332.

Seventh. Higher education construction, Public Law 88–204.

Eighth. Assistance to land-grant colleges, 7 U.S.C. 301–308, 321–331. That is one of the oldest programs on the books. It is more than 100 years old.

Ninth. Vocational education, 20 U.S.C. 11–34.

That is a program which I believe is almost 50 years old.

Tenth. Grants for library services, 20 U.S.C. 351–358.

Perhaps that is one of the more recent ones.

Eleventh. Teaching for the blind, 20 U.S.C. 101–105.

Twelfth. Training teachers of the handicapped, 20 U.S.C. 611–617—mentally retarded; 671–676—deaf.

Thirteenth. Educational television facilities, 20 U.S.C. 541–542.

Fourteenth. Department of the Interior; Bureau of Indian Affairs; Education and welfare services, 25 U.S.C. 452–454.

Fifteenth. Housing and Home Finance Agency; college housing, 12 U.S.C. 1749–1749d.

Sixteenth. Department of Health, Education, and Welfare; higher education construction, Public Law 88–204.

Seventeenth. Colleges of agriculture and mining, 7 U.S.C. 329.

Eighteenth, Cooperative vocational education, 29 U.S.C. 31.

Nineteenth. Library services, 20 U.S.C. 351–358.

Twentieth. Defense education activities; language development, 20 U.S.C. 511–521.

Twenty-first. Fellowships and assistance to schools—Atomic Energy Commission—42 U.S.C. 2201.

Twenty-second. Research grants awards—National Science Foundation, 42 U.S.C. 241.

Twenty-third. Fellowship awards—National Science Foundation, 42 U.S.C. 289C.

Section 602 is mandatory, not discretionary. It provides that each Federal department and agency shall take action to effectuate the provisions of section 601 with respect to such program or activity. Such action may be taken by or pursuant to rule, regulations or order of general applicability. Each of the agencies dealing with school or college funds or assistance would be required to determine whether discrimination existed in programs administered by it and to require the elimination of any such discrimination (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding of a failure to comply with such requirement, or (2) by any other means authorized by law.

It is significant that title VI does not provide that "discrimination" shall not be defined to include racial imbalance. This amendment was to title IV alone and is applied only to the word "desegregation" therein used. This may permit "side door" action by Federal authorities under title VI.

That is a distinct possibility for which a plausible argument could be made.

Another assertion in the advertisement is that the bill would:

(f) Take from local and State officials their right without Federal interference—to handle local and State elections—title I (first item).

I fail to see any real basis for dispute about this.

Title I would set up certain Federal requirements concerning qualification of voters which would interfere with and attempt to supersede the right of State legislatures and local and State officials. I quote from the minority report of the House Committee on the Judiciary, being page 78 of Report No. 914:

The reported bill is cleverly designed to include many State elections.

This is done by including in section 101(c) the definition that "the words 'Federal election' shall mean any general, special or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate or Member of the House of Representatives." Members of the House of Representatives, Members of the Senate or presidential electors are chosen at the same elections at which State or local officials are elected in 46 States. The bill is worded with the intent to make it applicable to all officers chosen in such elections and hence is applicable to State or local elections in such States.

Nor is this all. It is readily conceded by civil rights proponents that title I would have precisely this effect. Representative McCULLOCH, of Ohio, the ranking member of the House Judiciary Committee, in discussing this provision on the floor of the House on February 3, 1964, said:

I said that the election of Federal officials would be covered, and if the State officials chose to have their election or if the State chose to have its election for State officials on the same day the Federal officials were elected, then this legislation would cover the election of the State officials.

The distinguished Senator from Minnesota [Mr. HUMPHREY] made a similar concession in his lengthy speech on H.R. 7152 on the floor of the Senate on March 20, 1964. He said:

When State and Federal elections are held together, the inclusion of the words "in part" will no doubt have an effect on the State election.

He also said:

If a State continues the single procedure for State and Federal elections after the enactment of title I, its elections, including the inseparately related election of State and local officers, will be held "in part" for the election of Federal officers, and they will be covered by the legislation.

There is some bit of irony in the fact that the Senator from Minnesota made this statement on the same day that the Senator from California [Mr. KUCHEL] bitterly attacked the statement made in the advertisement and said:

In the first place, as I have noted previously, much to my displeasure, the House-passed bill is limited solely to Federal elections.

The conflict between the views of the Senator from Minnesota and Representative MCCULLOCH, on the one hand, and the Senator from California, on the other, is too apparent to merit comment.

Mr. President, the advertisement in question also stated that the bill would:

(f) Take from local and State officials their right, without Federal interference, to regulate local parks, swimming pools and other recreational facilities—title II, second item.

The reference to the title II in this line was a manifest typographical error. This statement should have referred to title III, and the following line should have referred to title II. There is no need to discuss title III in any detail. It goes much further than the statement in the advertisement and grants the Attorney General the right to bring an action in court at the expense of taxpayers, even though no person has filed suit.

According to the advertisement, the bill would also:

(b) Take from local and State officials their right, without Federal interference to regulate hotels, restaurants, motion picture houses, stadiums, etc.—title III, third item.

As I have already stated, the reference to title III is a typographical error. The reference should be to title II. There is no need to discuss here the unconstitutional preemption by the Federal Government of the right of the States to regulate privately owned places of so-called public accommodation which offer to serve the public and which are within the coverage of the bill.

There are some provisions in the bill relating to regulation of those accommodations that I think even a State does not have power to regulate.

Another statement is that the bill would:

(f) Take from local and State officials their right, without Federal interference, to regulate employment practices—titles VI and VII, fourth item.

While States and their political subdivisions are not technically within the coverage of title VII as employers, we must bear in mind again the power of Federal officials to control the purse strings under title VI. The broad authority under title VI will permit the extension of all of the inhibitions of title VII—without any of the protective procedural provisions thereof—to all States and their political subdivisions which participate in or receive the benefit of any program or activity receiving Federal financial assistance.

Again I raise the point, What is meant in the bill by the term "Federal financial assistance"?

THE MYSTERY WORD: "DISCRIMINATION"

Mr. President, the mystery word of all the words in the entire 11 bills thrown into one is the word "discrimination."

The advertisement recites as follows:

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 be so classified by another agency.

That there is no uniformity is a significant and very practical objection. There is no definition of the word "discrimination." There is no required uniformity on the part of various departments and agencies in applying their definition or meaning to the word.

The advertisement also recites:

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).

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

Mr. STENNIS. I am glad to yield to the Senator from Ohio.

Mr. LAUSCHE. Does the Senator know whether there was any discussion in the House, either in committee or on the floor, relating to the issue that there is no definition in the bill of the meaning of the term "discrimination"?

Mr. STENNIS. I have not personally read any of the debate in the House on that point. I am sorry I cannot come to the assistance of the Senator from Ohio.

Mr. LAUSCHE. The Senator's position, however, is that since many departments would be guided by the proposed law, the interpretation of the term "discrimination" would depend upon the minds of the persons in charge of the departments and that their minds would differ on what the meaning of the word "discrimination" is?

Mr. STENNIS. That is exactly the point; and even though discrimination with reference to one enterprise and one undertaking would vary somewhat from that in another, certain fundamental and essential definitions should be assigned to the word "discrimination." It should be made clear in the bill to serve as a guideline for the agencies involved. Otherwise, free to follow their own course, many would have different ideas which could be impractical and unsatisfactory. An individual might have two different businesses; and there might be one term for the meaning of "discrimination" in one business and another term for it in the other. A person, although trying to comply with the law, might find himself in a conflicting situation in his own central management.

I thank the Senator from Ohio for his question.

These various titles upon which this portion of the advertisement is based are so clear that further comment is unnecessary. I submit that the argument made there does no violence either to reason, logic or fairplay.

DICTATORIAL ATTORNEY GENERAL

One term used in the advertisement is "dictatorial Attorney General." I will repeat the wording of the advertisement under the heading "Dictatorial Attorney General," which speaks for itself:

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 Gene.al 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).

I wish to make further comments on that point at a later time. I believe that in any enactment of a bill by Congress, to permit anyone including the Attorney General, to shop around for a judge as this provision would allow, would be a serious encroachment upon the judiciary. It would be serious abuse of power by Congress, if valid. I do not believe that we can authorize the Attorney General of the United States, or any other person, to operate under a separate law. To this extent at least, with reference to setting up tribunals, it does not make sense, and it is not right.

The individual against whom the Attorney General would be proceeding could not shop around for a judge which he would prefer. The official against whom he would be proceeding, or the local agency, or a State, could not do that. But title I of the bill would give the Attorney General carte blanche authority to shop around without any restriction. He would not have to even allege any irregularity, much less prove any. He could automatically set up a special court. I do not believe under any circumstances Congress should make an exception for the Attorney General, or anyone else unless it were during wartime, or because of an extraordinary situation of that kind.

If we make such an exception, we shall undermine the fundamental concepts of the judicial branch of our Government as set forth in the Constitution.

I wish to say something further on that point. I am in the process of preparing the remarks.

Mr. LAUSCHE. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield to the Senator from Ohio.

Mr. LAUSCHE. If I correctly understand the argument of the administration, there now exists in law the authority for the Attorney General to shop around and find a court that he feels will be fair in the disposition of the cause he will present. I should like to in-

quire of the Senator from Mississippi if he is familiar with that authority.

Mr. STENNIS. I am not completely familiar with all the provisions of the law concerning three-judge courts. I do know that the existing provisions for then differ substantially from that found in title I. I do not believe that the Attorney General has any powers with respect to three-judge courts under existing laws which would serve as a valid precedent for the proposal contained in the pending bill. There are provisions for three-judge courts in specified and limited cases, but——

Mr. LAUSCHE. I believe it has been said that in the antitrust cases the Attorney General can go to a circuit court and ask for the appointment of a judge; but the position of the Senator from Mississippi is that no one should be given the right to look around to find a court which the Attorney General might believe would be honest, thus implying there are courts which are dishonest.

Mr. STENNIS. The Senator is correct. The Attorney General would not have to give any reason, under the law, make any allegations, or submit any proof. He would merely say, "This shall be done," and the statute would provide that it should be done.

Mr. LAUSCHE. How would the Senator from Mississippi answer the argument that there is now a procedure, under the antitrust laws, which gives this identical right to the Attorney General in antitrust cases; and therefore, since it is there, it should be given to him in connection with civil rights litigation?

Mr. STENNIS. There is quite a distinction between the subject matter of the litigation and in the manner in which the courts are constituted. Antitrust suits involve far-reaching organizations and enterprises stretching, perhaps, all the way across the continent. They involve various practices and business relationships that can be vast in their consequence.

Under the pending bill, three-judge courts would be provided in matters which involve specific localities and local election officials.

The proponents of the so-called civil rights bill say that the southern judges put such cases off, and that they will not do this, or that.

I believe that there are high quality judges on the bench. I hold in my hand a decree in the State of Mississippi, already signed by an honorable Federal judge who has been on the bench for 30 years. He has expressly ordered the school board to admit certain Negro children to school. The order is that the board must come forward with a plan. The case has reached the final stages. The issues were litigated. This issue has been highly controversial, beginning with the Brown case. The Federal judge has followed the law as it has been established by the higher courts. Perhaps, in some instances the judges do not act so quickly as the Attorney General might wish, but that is no reason to allow the Attorney General to choose his own judges. Such a practice would be an encroachment of our long established judicial system.

I shall be glad to discuss that question further with the Senator. I am glad he is interested. We shall go into the antitrust feature; but I do not believe that a comparison with the pending bill is applicable.

Mr. President, to continue:

(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.

Each of us can judge whether those statements exceed fair comment or legitimate debate on a burning issue of the day. I say they do not. Each of us can make our own decision as to whether the sponsors of the advertisement were within their rights in bringing to the attention of the American people their version of the impact, effect, and import of the civil rights package. I assert that they were.

I am absolutely certain that there is no one who can state with complete accuracy precisely what this bill will and will not do. Its total impact and effect cannot be measured at this time.

That is an important statement—one which cannot be contradicted. No one can state with complete accuracy what the bill would do and would not do. That can be illustrated in a hundred different provisions. There was a very fine discussion today on the title dealing with the withholding of Federal funds. No one can say with complete accuracy what a federally assisted program is under the language of sections 601 and 602. The language is vague and conflicting.

The proponents can argue with equal honesty that one program or another is or is not included. The language is easily subject to more than one interpretation—even to more than two or three interpretations.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. STENNIS. I yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Is the Senator referring to the advertisement entitled "$100 Billion Blackjack"?

Mr. STENNIS. Yes.

Mr. LONG of Louisiana. Is the Senator aware of the fact that the executive power of the Government is now being used to bring pressure upon every lending agency which has any connection with the Government to force the agencies to hire people whom, in some cases they would prefer not to hire, and to withhold the making of loans in areas where people may desire to live among neighbors of their own choosing?

Mr. STENNIS. The Senator from Mississippi is familiar with that situation. I believe the Senator from Louisiana also is familiar with it, because we have both felt the lash in that regard.

Mr. LONG of Louisiana. The full spending and lending power of the Federal Government is used to make it difficult if not impossible for people to make loans, and is brought to bear upon individual citizens, to make them do things not of their free will. All of this is without the sanction of law. Such efforts are supported by usurpation of power. Does that not amount to a hundred-billion-dollar blackjack, or more?

Mr. STENNIS. When we include loans by federally supervised lending agencies the amount exceeds $100 billion. I know of the experience of a fairly small manufacturing plant in Mississippi, which does not sell anything to the Federal Government. It does not sell even one dollar's worth of its products to the Federal Government, and it has no contract or any other business relations with the Federal Government whatever. However, the company is a member of a group of companies—some of them located in Ohio, Indiana, and elsewhere—that are doing business with the Federal Government and have contracts with the Federal Government. Therefore, the Federal Government assumed jurisdiction because of the related companies located in other parts of the country. It moved in on this little enterprise in Mississippi, and really read the riot act to it. This is a very difficult situation.

Mr. LONG of Louisiana. Is it not correct to say that in connection with some Federal aid programs—and I have highways particularly in mind—conditions are being placed in Federal aid contracts under which a State agency would be required to have a contractor doing business with the State forgo his right to hire and fire whom he wishes to hire or fire, and requiring, also, other people who do business with them to do the same thing?

Mr. STENNIS. The Senator is correct. That is done under executive order of the Federal Government.

Mr. LONG of Louisiana. Are there not provisions included in the bill which are designed to firm up and to legitimize that kind of activity?

Mr. STENNIS. It would approve all those that exist, and create authority with respect to anything that touches the Federal Government. There would be unlimited power to issue all kinds of executive orders. This bill goes even further than that. It contains provisions giving similar power to departments and agencies. At the same time we are leaving the President foot loose and fancy free.

Mr. LONG of Louisiana. I agree with the Senator's argument that this proposal amounts to a $100 billion blackjack; it is probably more than a $100 billion blackjack.

Mr. STENNIS. It will add up to several times $100 billion. I thank the Senator from Louisiana.

My point is that these issues must be debated. The arguments may be opposed, if anyone wishes to do so. That

is in accordance with the American system. However, there are no clear guidelines in the bill. The arguments are made in good faith; yet different conclusions will be drawn.

If the bill is passed it will be 25 years or more before the extent of the power which is conferred is precisely defined. Even the proponents of the legislation have said that every sentence of it will be tested in the courts. Because of the uncertainty necessarily involved in this drastic package, it is important that we consider—not only what we know will be done under it, but also what conceivably can be done under it in the hands of bureaucrats who are intent on stretching it to its maximum limit.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. LONG of Louisiana. Is not the Senator saying, in effect, that once laws are passed to support this kind of activity, such usurpations of Federal power being as are now exercised against citizens will be even further expanded? Is it not true that there will be no limit to the kind of thing that the mind of man will dream up to further impose upon people and to deny them their freedom of choice and right to associate and to hire and fire?

Mr. STENNIS. That would be natural. It is human nature. That is what we expect, and we will be blamed for not anticipating it now. The departments will wish to get results with this new power. Their records will be checked, to see what they are doing. It is like the sale of savings bonds during the war. A certain quota is assigned to each department or agency, and each one will have to meet its quota.

Mr. LONG of Louisiana. Does the Senator believe that every citizen has the civil right to live among neighbors of his own choosing, and with the type of people that he would like to live with?

Mr. STENNIS. The Senator has touched the fundamental point. There is nothing closer to a man than his own home. Suppose he wishes to sell his home and buy another. If he tries to sell his house he may find that he is in an impossible situation. He may not be able to offer it to a real estate agency, because of restrictive rules and regulations. One of the most valuable human rights, one of the oldest rights known to man, may be taken away from him.

Mr. LONG of Louisiana. Is he not likely to find that the President of the United States has put pressure upon all the lending agencies, to see that the agencies do not make loans to him in order to sell the home to someone who is acceptable to his neighbors?

Mr. STENNIS. He is, under the executive order issued by the President in 1962. All these inhibitions have been attached to loans which have been obtained since then, under the rules and regulations laid down.

I covered this subject in the first part of my discussion as to how the housing order covers the contractor who builds the house, the man who develops the land, and the man who supplies the material. It even applies to the leasing of the house by the man who owns it. The man is bound by that provision in all rentals. He discovers that he signed a provision to that effect when he obtained the money. At a time when he seeks to sell the house, he is not master of his own house, because he signed on the line to get the money. That illustrates what we are wading into.

I thank the Senator. I appreciate his interest.

The advertisement details in outline form the effect the proposed legislation would have on classes of individuals and institutions.

It is as follows:

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

Farmers as to (1) all Federal farm programs, (2) employees and tenants, (3) membership in farm organizations.

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.

Business 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.

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.

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.

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.

It should be noted that the advertisement is careful to state that the controls apply "within the coverage of this bill," points out the existence of minor exceptions, and offers to make available detailed analyses. Many of the applications of the bill have already been discussed by me. There is no need to take each item separately, as they fall into categories to which different titles of the bill are applicable.

In the categories listed, first, farmers; second, banks and other financial institutions; third, business and industries; fourth, individuals; and, fifth, labor unions and members, are all subject, within the coverage of the bill and subject to minor exceptions, to title VI and title VII of the bill. Within these categories, all who participate in or benefit from any program or activity receiving Federal financial assistance will be subject to the controls which I have described.

Rather than repeat what I have said which is applicable to these outlines, I point out a few additional matters falling within the legitimate comment and opinion expressed in the advertisement. It is certainly reasonable to assume that most farmers participate in programs receiving Federal financial assistance, that most farm cooperatives are financed by the Federal Banks for Cooperatives and that Executive orders or agency regulations similar to Executive Order No. 11063 may be expected in this field. It may be assumed that farm organizations will be accorded the same treatment now accorded to labor unions. Already banks and other financial institutions are subject to Executive Order No. 11063 in the approval and foreclosure of FHA and GI loans. The extension of that order to cover broad activities of banks insured by the Federal Deposit Insurance Corporation under section 601 is certainly a development which may be reasonably anticipated.

The coverage of the bill as to businesses, industries, individuals, employment, and labor unions is broad enough under title VII, based upon interstate commerce and ultimately upon employment of 25 or more persons. It is even broader under title VI, if such persons or entities participate in or receive the benefit of any program or activity receiving Federal financial assistance. Here the number of employees is immaterial and the nature of the business or profession is immaterial. Executive Orders No. 10925 and No. 11063 foreshadow the application to these persons of Federal supervision delineated in title VII including the hiring, firing, promotion, compensation and the terms and conditions of employment, within the coverage of the bill.

Already I have detailed 23 of the many programs which draw private and public schools and colleges within the strictures of title VI, under which Federal dictation concerning employment may reasonably be expected to be patterned either upon Executive Order No. 10925 or title VII of the bill. There is no need to recount the many programs receiving Federal financial assistance which will draw almost every hospital in the country within title VI. A review of the case of *Simkins* v. *The Moses H. Cone Hospital*, 323 F. 2d 959, reveals that the medical staffs of hospitals may be expected to fall within the ambit of Federal dictation under sections 601 and 602.

Under title VI, we may expect farmers and banks and schools and hospitals to be subjected to Federal control within the coverage of the bill, just as surely as homeowners are controlled by Executive Order No. 11063 as to their lessees, tenants, and vendees. We may expect them to be controlled as to their employees—that is, laborers, tellers, faculty

[1] 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.

members, and technical and nursing staffs—just as surely as contractors, subcontractors, vendors, and labor unions are controlled by Executive Order No. 10925 as to their employees and members.

Mr. President, I cannot understand what authority there is for the Executive order on housing. Congress has not authorized it. However, it is a fact of life that the Executive order has been issued; and it is also true that the opportunity exists for a broad expansion in the application of that order.

Mr. SPARKMAN. Mr. President, will the Senator from Mississippi yield?

The PRESIDING OFFICER (Mr. BREWSTER in the chair). Does the Senator from Mississippi yield to the Senator from Alabama?

Mr. STENNIS. I yield.

Mr. SPARKMAN. I am very much interested in the discussion which has occurred in connection with the Executive order on housing.

As a predicate for the question I wish to ask, let me say that I firmly believe the President of the United States did not have authority to issue the Executive order on housing. Of course, I have said that before.

Mr. STENNIS. I appreciate the Senator's comment. I am delighted to yield to him and to have him comment on the housing field. He is the real Senate expert in that area. He has given it close attention, and is always well informed in regard to it. I believe it would be very illuminating to the Senate to have the benefit of his views on that subject, and on the Executive order.

Mr. SPARKMAN. I appreciate very much the Senator's comments.

President Kennedy called me to the White House some months before he issued the Executive order, and talked to me about it. I told him very frankly what I thought about it.

Does the Senator from Mississippi remember that as long ago as 1947, Congress specifically declined—and I know that in several instances that was done by means of rollcall votes—to write into housing legislation so-called nondiscrimination clauses?

Mr. STENNIS. Yes. In that connection there were many rollcall votes, extending over a period of several years.

I am sure the Senator from Alabama recalls them.

Mr. SPARKMAN. Yes. When the Housing Act of 1947 was passed, the Senator from Mississippi was then a Member of the Senate, and I am sure he remembers that act.

Mr. STENNIS. I do.

Mr. SPARKMAN. A nondiscrimination amendment with reference to public housing was offered to that bill by the late Senator Bricker, of Ohio, as I recall. It would be interesting to Senators, I am sure, to read the debate which occurred at that time on the floor of the Senate. I was in charge of the bill. Those who are interested in reading that debate can find it in volume 95 of the CONGRESSIONAL RECORD, at page 4861, on April 21, 1949. That was a most interesting debate and procedure. The Senator from Oregon [Mr. MORSE] and the Senator from Illinois [Mr. DOUGLAS] led the fight against that amendment. It seems to me one other Senator joined in leading the fight against that amendment; perhaps it was the Senator from Minnesota [Mr. HUMPHREY], although I am not sure about that. But certainly the Senator from Oregon [Mr. MORSE] and the Senator from Illinois [Mr. DOUGLAS] led the fight against that amendment, because they said that there was an obvious necessity for more housing, whereas the purpose of offering the amendment was, in their opinion, really not to facilitate the passage of the bill, but, instead, to kill that public housing bill.

A similar situation has developed in the Senate half a dozen times since then, has it not?

Mr. STENNIS. Yes; and there is a complete congressional record establishing that the President's Executive order was contrary to the congressional intent. We are referring to Executive Order No. 11063; and I have referred to it previously, today. Such an amendment was voted down six times on the floor of the Senate. The first occasion was in 1949; and similar action occurred in 1953.

Mr. SPARKMAN. Yes. I was guessing when I said "half a dozen times."

Mr. STENNIS. Nevertheless, the Senator from Alabama was entirely correct. After 1953 such an amendment was rejected in the Senate twice in 1954 and twice in 1959. So there was a total of 6 votes—all of which resulted in rejection of such amendments.

Mr. SPARKMAN. Yes. So the President's Executive order on housing was clearly contrary to the congressional intent, was it not?

Mr. STENNIS. Yes; entirely so.

I can cite a more recent illustration, although not in relation to housing. Last December, when the Senate was dealing with an appropriation bill, the Senate considered the so-called Powell amendment—a nondiscrimination amendment. In the Senate, that amendment was rejected down on a yea-and-nay vote. Before the bill was passed by the Senate I telephoned the head of that Department, and told him what had happened. I asked him whether he would abide by the verdict of the Senate. The bill had already been passed by the House, and thus there was then no way to have the House vote to include that provision in the bill. He said he was sorry but he could not say he would abide by the verdict of the Senate. That was the answer given by that Cabinet member; and his answer shows how far the executive branch has gone in ignoring and disregarding the congressional intent.

Mr. SPARKMAN. Yes; and that was an expression by Congress in clear contradiction of that Executive order, was it not?

Mr. STENNIS. Yes.

Mr. SPARKMAN. Let me ask whether the Senator from Mississippi has read the excellent and able article written by Judge Charles Sterling Hutcheson, chief judge of the U.S. District Court for the Eastern District of Virginia, now retired. In the article, he stated definitely that the President's Executive order on housing is unconstitutional, and also that it was not supported by Congress.

Mr. STENNIS. That is correct.

Mr. SPARKMAN. In other words, he stated that, in fact, the President's Executive order on housing was contrary to the congressional intent.

I hope at a later time, when I am speaking in my own time, to read the entire article, or certainly a considerable part of it, for the benefit of Senators. It is not a very long article.

If the Senator from Mississippi will permit me to do so, at this time, I should like to read to the Senate the conclusion of the article; and then I wish to ask him to comment on it.

Mr. STENNIS. I shall be glad to have the Senator from Alabama do so.

Mr. SPARKMAN. I now read the conclusion of the article by Chief Judge Hutcheson:

> Conclusion: The President's order is clearly unconstitutional on several grounds and appropriate steps should be taken promptly to nullify it. The procedural method of obtaining relief perhaps is beyond the scope of this article. The remedy which immediately suggests itself is action by the Congress to defend the Constitution by legislation repelling this invasion of its province. The definite refusal of Congress to enact the rider previously mentioned would seem an additional reason for such action. Since Congress may act sua sponte this would seem the more expeditious method and in conformity with the constitutional concept of the separation of powers. An alternative course of action would be in the form of litigation. However, this would place upon interested individuals the burden of conducting such litigation. In any event, the existing situation calls for speedy remedial action.

I wish to ask the Senator from Mississippi a question about a provision of the pending bill which, again, seems to have created considerable confusion.

Is not one of the great arguments against the pending bill, as it is now being considered, based on the fact that the bill has never had the benefit of consideration by a congressional committee which could tear it to pieces and could consider its various conflicting and confusing provisions?

Mr. STENNIS. Yes.

The need for such an analysis as the Senator has given becomes more apparent every day. Senators who come here in good faith to speak on the bill—on one side or the other, it makes no difference—have no guidelines or interpretations that are authentic to guide them, help them, or give them needed information.

Mr. SPARKMAN. I wish to ask the Senator about a provision of the bill. I have studied it and I cannot escape the conclusion that it would create confusion. Judging by some of the things that have been said on the floor of the Senate, the situation is confused. There is a certain provision in the bill which was put in the bill in the House. Of course, the entire bill came from the House. I believe the provision was written into the bill on the floor of the House, though I am not sure. I do not now have the bill before me. I am not quoting it word for word. In effect the bill states that

the provision shall not apply in the case of guaranteed or insured loans.

Mr. STENNIS. Yes.

Mr. SPARKMAN. The Senator is aware of the provision to which I have reference?

Mr. STENNIS. That is section 602.

Mr. SPARKMAN. Section 602. An executive order covers FHA insurance and VA-guaranteed loans. That is all the Executive order covered. I suppose it covered direct loans for public housing, but so far as the type of loans discussed in the bill are concerned, the FHA-insured and VA-guaranteed loans are the ones with which we are concerned. If the provision in the bill states that these conditions shall not apply to insured and guaranteed loans, why is that not directly in opposition to the President's Executive order; and being the act of Congress, why does it not have the effect of negating the President's Executive order?

In the opinion of the Senator, would it do so if the bill should be passed?

Mr. STENNIS. Frankly, so far as the departments operating under the regulations are concerned, it is clear what the amendment does. But that is in section 602. Section 601 would be left untouched and the limiting language does not appear in that section. It could be argued with a great deal of force that section 601 would not only validate existing executive orders but that it would give the President carte blanche authority to issue any others that he might wish to make. That is a very strong argument made by some of the proponents of the bill. If that interpretation should be upheld by the court, there would be absolutely no limit to the executive orders that could be issued.

Mr. SPARKMAN. I should like to question the Senator a little further. Section 601 is a broad, sweeping section.

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. Section 602 states:

> Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guarantee—

That is FHA and VA. There is no question about it.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Continuing to read from section 602—

> shall take action to effectuate the provisions of section 601.

Section 601 is tied in with that provision.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Therefore the exception would apply so far as the provisions of section 601 are concerned. Is that not correct?

Section 601 provides—

> shall take action to effectuate the provisions of section 601—except as to a contract for insurance or guarantee.

Mr. STENNIS. That question was befor the Senate one night not long ago.

Mr. SPARKMAN. That is why I say it is confused. One day I heard the Senator from Minnesota—and I am sorry he is not now present—laying great stress on the fact that the exemption was in the bill.

Mr. STENNIS. May I review the developments on the floor that night? I raised the point as to the meaning of the sections with the Senator from New Jersey [Mr. CASE]. He said that unquestionably the limiting provisions of section 602 left section 601 untouched.

Mr. SPARKMAN. It does not.

Mr. STENNIS. He also said that the President's power to issue Executive orders would remain and would even be expanded. The Senator from New York [Mr. KEATING] wholeheartedly agreed with the Senator from New Jersey. The Senator from Minnesota said that he would have to disagree with the Senator from New York and the Senator from New Jersey. The question was left in that state in the RECORD.

Today I said that if we were to take the view of the Senator from New York and the Senator from New Jersey, they could cover FHA and VA loans and similar programs under section 601. It is a debatable question as to which section would apply.

Mr. SPARKMAN. I dislike very much to see a legislative record built in that it would leave the President's Executive order in force in spite of that provision in the bill, if the bill should become law, because I do not believe that that is what the bill provides. I believe a court construing that language would be bound to find that that was a limitation on section 601, because it is so stated in the same sentence. It is not even separated by a period.

Mr. STENNIS. It could well do that. But my concern is that it would not be compelled so to rule, under the present wording of the two sections.

Mr. SPARKMAN. I wish there could be a clear-cut legislative record on the floor to the effect that the provision would negate the Executive order. That is exactly what it should do. The Senator from Minnesota was in agreement with that contention the first day he presented the question. Later he presented it in the form of a speech. I read the speech, and I was still confused.

Mr. STENNIS. I have not had an opportunity to read the second statement of the Senator from Minnesota.

Mr. SPARKMAN. He made a second statement, which did not seem to me to be as clear as his first statement. It appears on page 6544 of the RECORD of March 30.

Mr. STENNIS. I should like to see an interpretation adopted that section 602 would put limitations on section 601. But my concern is—and I was trying today to sound the alarm on that question—that if it is not so construed, carte blanche authority could be given. There would be no guidelines to control the President of the United States in issuing orders.

Mr. SPARKMAN. Will the Senator permit me to read briefly? I should like the Senator to listen to the first statement of the Senator from Minnesota:

> Title VI will have little or no effect on federally assisted housing.

That was his opening sentence. Continuing:

> It will have little or no effect on federally assisted housing. This is so for two reasons: First, much Federal housing assistance is given by way of insurance or guarantee, such as FHA and VA mortgages, insurance, and guarantee. Programs of assistance by way of insurance or guarantee are expressly excluded from title VI.

That was his statement. He made another statement. He said:

> On the other hand, it will not impair in any way the existing authority of the President and the agencies administering those programs to deal with problems of discrimination in them.

Mr. STENNIS. In the housing programs?

Mr. SPARKMAN. He said, "in them." I presume that was what he was talking about. For that reason I say I am confused. In one sentence he said what I believe to be true, that such programs are lifted out of section 601 of title VI, and that lifting them out of section 601 of title VI also lifts them out of the President's Executive order.

Mr. STENNIS. If they were lifted out, as the Senator from Minnesota said in his second statement, would that not invalidate the President's present Executive order on the subject?

Mr. SPARKMAN. That is the argument I have been making.

Mr. STENNIS. I know. I wanted the Senator to make a legislative record.

Mr. SPARKMAN. I am of the opinion that the provision in section 602 would completely vitiate the President's Executive order.

Mr. STENNIS. On the other hand, if it were given the other interpretation, it would validate, underscore, and give carte blanche authority to it. This is what some of the proponents of the bill contend.

Mr. SPARKMAN. I do not see how it could possibly validate it.

Mr. STENNIS. The Congress has legislative authority to pass bills to ratify things that are being done under Executive order.

Mr. SPARKMAN. Yes; but there is nothing in the section which does that.

Mr. STENNIS. If the passage of title VI did not have the effect of nullifying the order—that is, if the Senator's interpretation is incorrect—then, taking the opposite view urged by some supporters of the bill the effect might be to validate it.

Mr. SPARKMAN. I do not agree with the Senator. I think it would be maintaining silence so far as that is concerned. I think it would definitely negate it.

Does not the Senator agree with me that this illustrates the confusion which exists, not only with respect to this part of the bill, but with respect to many other parts of the bill?

Mr. STENNIS. It is a classic illustration that, since there were no committee hearings, there is no way to consider this bill except for every Senator to give his opinion and debate it at length. Although I doubt it, it may be that the correct interpretation can be

ascertained in that way. Perhaps the Attorney General has already given the proponents an opinion on the question we are discussing.

Mr. SPARKMAN. If the Senator will yield further, is it not true that the Attorney General asked the House Committee not to include this particular part, but some other parts of the bill? Is it not a fact that the Attorney General went before the House Judiciary Committee and said the committee was putting provisions in the bill that the Justice Department did not want in it, that should not be in, and that would make the bill impracticable?

Mr. STENNIS. Yes; I believe he so stated with respect to certain provisions. I do not believe the proponents of the bill will admit that the bill places much of a limitation on the President's Executive orders in this field.

Mr. SPARKMAN. If the Senator will yield further, I suppose that is true; nevertheless, I emphasize the fact that it is written in black and white in the bill that the provisions in section 601 shall not apply——

Mr. STENNIS. Section 602.

Mr. SPARKMAN. No; section 602 makes reference to section 601.

To continue with my statement, the bill provides that the provisions in section 601 shall not apply to contracts of insurance or guarantee. Guarantees refer to VA housing loans, and the insured contracts are FHA loans, generally speaking. There are insured loans under the Farmers Home Administration, and programs of that kind.

Mr. STENNIS. The Senator from Mississippi will try to continue to wrestle with these problems, because they are vital.

The dictation of Federal inspectors to hotels, motels, and restaurants within the coverage of the bill under title II and titles VI and VII—when applicable—needs no comment.

It is clear that if the bill is enacted and upheld, Federal authority—the advertisement refers particularly to Federal inspectors—can supersede and replace State authority to the extent of any conflict under first, title VII as to State FEPC and labor laws; second, title III as to handling of public facilities; third, titles II, VI, and VII as to supervision of various private facilities; and, fourth, title I as to handling of elections.

As to State judges and State law enforcement officers, section 203(c) provides that "no person shall (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202." This is patently an attempt to make enforcement by State judges and State law enforcement officers of State laws which may later be held to conflict with the act a violation of a Federal law and to subject them to punitive Federal action.

As to seniority of union members and other individuals, it is clear that the authority granted in both titles VI and VII is intended to include the right to require employment on the basis of race, and so forth, so as to remove "discrimination" in employment found to exist by the Federal agency. Preferential advance of minorities so as to destroy seniority in employment, civil service and apprenticeship programs has been foreshadowed by the action of Secretary of Labor Wirtz in adoption of apprenticeship standards made effective on January 17, 1964. These regulations require that each apprenticeship program shall conform to the standards by "the taking of whatever steps are necessary, in acting upon application lists developed prior to this time, to remove the effects of previous practices under which discriminatory patterns of employment may have resulted."

Under this pattern it is reasonable to assume that regulations may adjudicate that "racial imbalance" constitutes "discrimination," and require its removal. There are only two ways "to remove the effects of previous practices under which discriminatory patterns of employment may have resulted," that is first, to do so immediately by firing enough of one race to remove the "discrimination" against the other; or second, to do so gradually by refusing to hire any of one race until enough of the other are hired. As time and time again Federal officials yield to pressure groups, faster and faster action will be required.

The words of the distinguished Senator from Alabama [Mr. HILL], chairman of the Senate Committee on Labor and Public Welfare, before this body on January 15, 1964, apply not only to unions but to all employees:

> Powers given civil rights enforcement agencies under this bill, as I have implied, would allow them to bring pressure upon employers—through threat of contract cancellation or debarment—to actively recruit nonunion employees. As is immediately apparent, this could result in displacement of union mechanics. Moreover, if skilled nonunion workers were not available for recruitment, the Federal Government might insist that the employer provide whatever on-the-job training was thought necessary to qualify unskilled workers of the race needed to balance the job. In carrying out such a program the employer could be directed to ignore any existing union contract arrangements or apprenticeship programs to the contrary, as well as any union shop or exclusive hiring hall agreements.
>
> Let me emphasize that: These powers could be directed not only toward elimination of discriminatory hiring in general, but also toward all job classifications, specifically. Racial balance might be required in every position, from floor sweeper through superintendent, on to the topmost rung of employment. And if that meant recruitment by the employer, then he would have to recruit. If it meant on-the-job training, then on-the-job training would be required. Race—not ability, not seniority, and union contracts notwithstanding—would be the first criterion—the exact opposite of what the language of the bill apparently says.
>
> A warning of the ultimate effect of the bill, if enacted, is found in the fact that crash programs to upgrade specific groups are being resorted to with growing frequency. I need not add that anyone who is placed in a skilled position, as a result of such forced draft, is denying the job to another who has won his right to it through years of assiduous self-help and by standing in line, awaiting his turn, just like anyone else.
>
> PREFERENTIAL TREATMENT DEMANDED
>
> To inspire such crash programs, pickets have chained themselves to equipment, have lain prostrate in the streets, and have tyrannized timid public officials. Indeed, one organization dedicated to this sort of thing has made the demand that only its membership, those of its racial makeup, should be hired—none other. Nondiscrimination is no longer sufficient; preferential treatment is demanded. It is to preferential treatment, as embodied in this bill, that I most vigorously object.

That concludes the quotation of the Senator from Alabama [Mr. HILL].

I have not attempted to comment on every statement and comment made in the advertisement. However, I think that what I have said is sufficient to establish that, on the whole, the advertisement is reasonably accurate and certainly does not transgress the proprieties of fair and reasonable argument. As a matter of fact, the views expressed in the advertisement coincide rather closely with the views which a number of Senators have expressed in this debate.

As I said at the outset, I was not surprised that the supporters of H.R. 7152 found much to take issue with in this advertisement. I was surprised, however, at the rather intemperate abuse which has been heaped upon it and the reckless hurling of charges of lies and falsehood. To these who have been so stung that they felt impelled to so attack it, I would suggest that they bear in mind the first amendment guarantee of freedom of speech and recall unto themselves Voltaire's statement:

> I disapprove of what you say but I shall defend to the death your right to say it.

Mr. President, those who have attacked this advertisement have also commented adversely on the fact that the State of Mississippi has provided funds in support of the activities of the Coordinating Committee for Fundamental American Freedoms. This is but further evidence of how far the proponents of civil rights legislation will go in forcing their own thinking on protesting peoples. They not only propose to shackle us with their politically inspired collection of force bills; they would dictate to us how we must spend our own money.

Let me say that I am proud that the State of Mississippi is willing to fight aggressively for the restoration of sound, conservative, and constitutional government. I rejoice that it rejects the false and misleading political and social philosophies which, unless checked, will ultimately destroy the basic cornerstones of our cherished system of government—the basic civil rights which belong to all the people, regardless of color.

I stand resolutely with my State to prevent the last vestiges of State and individual rights from being usurped by an all-powerful central government on the shores of the Potomac. I only wish that more States had a similar concern for constitutional government and were willing to put their money, their energy, and their resources into the fight to retain it.

Mississippi needs no apology or defense in this matter. It is a sovereign State, although there are apparently some who would not treat it as such. It

has the right and the privilege to take such action, within the limits of the law, as it sees fit to protect and preserve the vital interests of its people. It even has the right to disagree with the thinking of those who would imposed H.R. 7152 upon us and to give public expression to such disagreement. It will continue to do these things in the future and, in so doing, it will have my full support. It will not be intimidated or coerced by the attacks upon it which have been or may be made on the floor of the Senate.

I only wish that there had been more coordination of effort, and more of a concerted attempt to really analyze and determine what the bill means, how it will be applied to the industries of our country, and how it will affect the Federal Government, the State governments, the municipal governments, the school districts, and the economic, political, and social phases of our lives.

Mr. SPARKMAN. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield to the Senator from Alabama.

Mr. SPARKMAN. Since our discussion a few monents ago on the Executive order, I have hurriedly read an article written by Mr. Alexander M. Bickel, a teacher of law at Yale University—who is a supporter, by the way, of civil rights legislation; and a followup letter published in the New Republic. Each was published in the New Republic, one on February 29, 1964, and the other on March 14, 1964.

Mr. Bickel writes about the amendment in section 602 which was added on the floor of the House, and he tells how the chairman of the Judiciary Committee, Representative CELLER, was emphatic in saying that it completely exempted FHA and VA loans on guaranteed and insured mortgages. At one place Representative CELLER said:

> We excluded them because there was an avalanche of protests, and it was emphasized several different times that they were excluded.

It is true that at one time someone had asked Representative CELLER what effect it had on the Presidential order, and he said, "None." But this is what Professor Bickel says—and he differs with that opinion:

> As I pointed out in my original article—

That is the first one to which I referred—

> the Executive order could rest on independent authority before there was a title VI. Unless I gravely misunderstand the law of inherent Presidential powers, however, no such independent authority can or should exist once Congress has seized itself of the subject and expressed its own desire through a provision like title VI.

That is what Professor Bickel of the School of Law of Yale University wrote. I believe he has stated a sound, legal proposition, that once the provision in section 602 of title VI is enacted into law, the President's order ceases to exist.

Mr. STENNIS. What we need is a flat statement, joined in by the proponents of the bill, that if section 602 should be enacted, the existing Executive order on housing would be canceled and become null and void.

Mr. SPARKMAN. I fully agree with the Senator from Mississippi. I recall that this exemption was added on the floor of the House for the purpose of exempting completely FHA and VA loans and mortgages, as cited time after time by Representative CELLER, chairman of the Judiciary Committee.

Mr. STENNIS. In spite of the strong language in section 602, my opinion is that if the bill should pass, the agency would maintain that the order was still in effect.

Mr. SPARKMAN. And would maintain it; but I believe good constitutional law would say that it would not be.

Mr. LONG of Louisiana. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am glad to yield to the Senator from Louisiana.

Mr. LONG of Louisiana. Does the Senator recognize that there may be a question of the right of citizens to protect themselves from the kind of usurpation involved in this Executive order, on the basis of their standing to sue? It may very well be that the order is unconstitutional and directly against the law, but those affected may not be in a position to go into court on it.

Mr. STENNIS. That is very well stated, because they have not the means. It would be a matter of going to court to have the Executive order declared void, and one would have to fight the entire Department of Justice.

Mr. LONG of Louisiana. A person might find himself in a position to try to establish his right to a loan; and it might well be that there would be no right to compel someone to make a loan or guarantee a loan. That person would have complete discretion. He would have a way to discriminate in any way he wished.

Mr. STENNIS. One would have a hard time to force an agency to make or approve a loan which it did not wish to make or approve.

PROPOSED AMENDMENTS

Mr. KEATING. Mr. President, the distinguished minority leader, the Senator from Illinois [Mr. DIRKSEN], has presented a series of proposed amendments to the title of the bill dealing with the establishment of a Fair Employment Practices Commission. I understand that he has held a press conference at which he has made known the substance of those amendments. He has made it very clear at that conference that they do not express the views of the party, but will be discussed at a later date, which is entirely in order.

It is most welcome. They represent a great amount of careful study. In many respects they would undoubtedly be helpful.

The professed purpose of the amendments is to shape an effective act and, as the Senator from Illinois has said, not to water down or emasculate the title. That is the objective of all the proponents of the proposed civil rights legislation, although there may be a sincere disagreement over whether specific proposals will advance or deter our common purpose.

For example, speaking for myself, I strongly favor utilizing existing effective State FEPC agencies similar to the one we have in New York State, which has worked extremely well. I see no point in duplicate regulations, records, and expense where such agencies are doing a good job.

The provisions of the original bill, allowing jurisdiction to be ceded to State agencies in appropriate cases, may need clarification; but I am somewhat concerned that the amendment proposed by the distinguished Senator from Illinois could invite evasion in States more dedicated to segregation than to equality of opportunity.

Therefore, while the existing language with regard to giving the State agencies full authority in the fields where they now operate is entirely satisfactory to me, and I believe protects those State agencies; yet if we are to make a change, we must be very careful not to change it in such a way that any State could evade the salutary and essential purposes of the act by simply setting up some kind of a commission that did not mean anything.

I can also understand the concern expressed by the Senator from Illinois about middlemen, as he puts it, initiating complaints, and about the requirement that those complaints be originated only by the person aggrieved. But I am more concerned about the victims of discrimination who are unable to protect their own interests because of intimidation or reprisal or some other reasons, which is a real threat in some communities.

I believe safeguards must be provided for such situations. Nor do I see, offhand, any justification for a 2-year delay in the timetable for the application of the act, as is proposed by the distinguished minority leader.

The original bill already provides a period for adjustment which, it would seem to me, should be adequate in States that are acting in good faith.

Some of the amendments suggested are of a technical or minor nature, but to the extent that they make the bill more effective and more uniform in operation, I would expect they would be unobjectionable.

While no decisions have been made with regard to the matter, certainly the proposals, regardless of any differences which we may have over particular amendments, are a welcome confirmation of the commitment of the distinguished minority leader to the principle of equal opportunity in employment, and I believe are to be commended in that respect.

I thank the Senator from Mississippi for allowing me to intervene at this point.

SOVIET ANTI-SEMITISM

Mr. KEATING. Mr. President, yesterday, 500 leaders of 2 dozen important American Jewish organizations drew up plans for a long-term effort to combat Soviet religious persecution. The conference which drew support from the entire country and from religious, labor, and humanitarian organizations,

is an important manifestation of the growing concern in the United States at the mounting degree of anti-Semitism in the Soviet Union. The conference drew up an 18-point appeal to the Soviet authorities to put an end to discrimination on religious grounds and to restore the cultural and religious rights of members of the Jewish faith behind the Iron Curtain.

Mr. President, the United Nations charter calls upon all nations to honor the religious and cultural rights of minorities. Not only as a leader of the free nations of the world, but also as a strong supporter of the principles of the United Nations, the United States has a particular responsibility on this issue. It is not enough for the U.S. State Department to reply, "No American citizens are involved; we cannot interfere."

This is an issue of worldwide humanitarian concern and I strongly urge the Government of the United States to give its strong backing to these efforts to promote human rights and religious toleration within the Soviet Union. This conference was an important effort which deserves nationwide interfaith backing.

GEN. DOUGLAS MacARTHUR

Mr. THURMOND. Mr. President, an editorial, published in the April 6 issue of the Evening Star, pays high tribute to Gen. Douglas MacArthur. The editorial is eloquent, and makes a valid point about the General's recall from Korea. I wish to read the editorial into the RECORD, because I believe it would be of interest to the people of the United States. It is entitled "General MacArthur," and reads:

GENERAL MACARTHUR

A significant measure of the man is that he was graduated from West Point in 1903 with a scholastic average (98.14 percent) that has yet to be equalled there. But Douglas MacArthur, dead now at 84, was gifted with something more than academic brilliance. He had a touch of wide-ranging genius in him. He had a style, a presence, a personality, an eloquence, a forcefulness of mind, a strength and grace of spirit, that set him apart.

History will record, first of all, that he was a truly great military leader—inspired and inspiring. In the First World War, though he was unprecedentedly young for such a responsibility, he commanded the famous Rainbow Division. And in the Second World War, after having set other precedents as the most youthful this and that (including Army Chief of Staff), he became commander of all our Armed Forces, land, sea, and air, in the far Pacific. Then followed his masterful island-hopping strategy that pushed the Japanese back and back. Next came Nippon's total surrender, and his assumption of the role of proconsul in charge of the occupation.

In this role General MacArthur won the affectionate and almost reverential regard of the Japanese people. With a personality and a physical demeanor well tailored to the task, and with his sure knowledge of Asia's problems and psychology, he switched from the role of conqueror to the role of reconstructor, setting in motion revolutionary changes that have since transformed Japan—much for the better. When he left that country, after having been impetuously fired by President Truman from his proconsul's job and from his command of United Nations forces in Korea, upward of 1 million residents of Tokyo turned out to pay him a fond and tumultuous farewell. Nothing could have better proved the excellence of the job he had done there for America.

There probably will be never-ending historical speculation over what might have happened to our world if General MacArthur's counsel had been followed in the Korean war. The counsel was simply this: Deny the Chinese Reds the privileged sanctuary beyond the Yalu River; bomb them; shatter their centers of power; smash China proper. President Truman, with the advice of his chief military and political associates, decided that such a course would involve the grave risk of precipitating a global nuclear war. Today, with the benefit of Dr. Hindsight's judgments, it seems probable that Mr. Truman's decision—a fateful one—was grievously wrong.

As for General MacArthur, in his address to Congress after his dismissal in 1951, he summed up his views in these words: "I know war * * * and nothing to me is more revolting. But once war is forced upon us, there is no alternative than to apply every available means to bring it to a swift end. War's very object is victory, not prolonged indecision."

And at another point he described himself as a "soldier who tried to do his duty as God gave him the light to see that duty." He did it superbly well. It may be a long time before another of his caliber comes our way.

THE COLD WAR IN AMERICAN LIFE

Mr. McGOVERN. Mr. President, on March 25, the chairman of the Committee on Foreign Relations, the distinguished Senator from Arkansas [Mr. FULBRIGHT], delivered an address on the floor of the Senate that may prove to be the most important address of 1964. It represents the kind of vigorous realism that is urgently needed in today's world.

The great danger to the people of the United States and to the peace of the world is that our attitudes and policies may become so rigid that we are unable to modify our course to meet changing conditions.

Senator FULBRIGHT, from his long years of study and observation of international affairs, has put the spotlight on a number of areas where our policies seem not to coincide with the realities of the world.

The Senator from Arkansas has now delivered a second major speech which builds on the earlier one. Speaking on April 5 at the University of North Carolina 1964 Symposium, "Arms and the Man: National Security and the Aims of a Free Society," Senator FULBRIGHT devoted his remarks to the theme, "The Cold War in American Life." I strongly urge every Member of Congress to read and ponder this important address.

I ask unanimous consent that the address be printed at this point in the RECORD.

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

THE COLD WAR IN AMERICAN LIFE

(Speech by Senator J. W. FULBRIGHT, delivered at the University of North Carolina 1964 Symposium: "Arms and the Man: National Security and the Aims of a Free Society")

The Constitution of the United States, in the words of its preamble, was established, among other reasons, in order to "provide for the common defense, promote the general welfare, and secure the blessings of liberty." In the past generation the emphasis of our public policy has been heavily weighted on measures for the common defense to the considerable neglect of programs for promoting the liberty and welfare of our people. The reason for this, of course, has been the exacting demands of two World Wars and an intractable cold war, which have wrought vast changes in the character of American life.

Of all the changes in American life wrought by the cold war, the most important by far, in my opinion, has been the massive diversion of energy and resources from the creative pursuits of civilized society to the conduct of a costly and interminable struggle for world power. We have been compelled, or have felt ourselves compelled, to reverse the traditional order of our national priorities, relegating individual and community life to places on the scale below the enormously expensive military and space activities that constitute our program of national security.

This of course is not the only change in American life brought about by the cold war. There have been many others, some most welcome and constructive. Directly or indirectly, the world struggle with communism has stimulated economic and industrial expansion, accelerated the pace of intellectual inquiry and scientific discovery, broken the shell of American isolation and greatly increased public knowledge and awareness of the world outside the United States. At the same time, the continuing world conflict has cast a shadow on the tone of American life by introducing a strand of apprehension and tension into a national style which has traditionally been one of buoyant optimism. The continuing and inconclusive struggle, new in American experience, has in Walt Rostow's words, "imposed a sense of limitation on the Nation's old image of itself, a limitation which has been accepted with greater or less maturity and which has touched the Nation's domestic life at many points with elements of escapism, with a tendency to search for scapegoats, with simple worry, and with much thoughtful, responsive effort as well."[1]

Overriding all these changes, however, good and bad, has been the massive diversion of wealth and talent from individual and community life to the increasingly complex and costly effort to maintain a minimum level of national security in a world in which no nation can be immune from the threat of sudden catastrophe. We have had to turn away from our hopes in order to concentrate on our fears and the result has been accumulating neglect of those things which bring happiness and beauty and fulfillment into our lives. The "public happiness," in August Heckscher's term, has become a luxury to be postponed to some distant day when the dangers that now beset us will have disappeared.

This, I think, is the real meaning of the cold war in American life. It has consumed money and time and talent that could otherwise be used to build schools and homes and hospitals, to remove the blight of ugliness that is spreading over the cities and highways of America, and to overcome the poverty and hopelessness that afflict the lives of one-fifth of the people in an otherwise affluent society. It has put a high premium on avoiding innovation at home because new programs involve controversy as well as expense and it is felt that we cannot afford domestic divisions at a time when external challenges require us to maintain the highest possible degree of national unity. Far

[1] W. W. Rostow, "The United States in the World Arena" (New York: Harper & Bros., 1960), p. 451.

more pervasively than the United Nations or the "Atlantic community" could ever do, the cold war has encroached upon our sovereignty; it has given the Russians the major voice in determining what proportion of our Federal budget must be allocated to the military and what proportion, therefore, cannot be made available for domestic social and economic projects. This is the price that we have been paying for the cold war and it has been a high price indeed.

At least as striking as the inversion of priorities which the cold war has enforced upon American life is the readiness with which the American people have consented to defer programs for their welfare and happiness in favor of costly military and space programs. Indeed, if the Congress accurately reflects the temper of the country, then the American people are not only willing, they are eager, to sacrifice education and urban renewal and public health programs—to say nothing of foreign aid—to the requirements of the Armed Forces and the space agency. There is indeed a most striking paradox in the fact that military budgets of over $50 billion are adopted by the Congress after only perfunctory debate, while domestic education and welfare programs involving sums which are mere fractions of the military budget are painstakingly examined and then either considerably reduced or rejected outright. I sometimes suspect that in its zeal for armaments at the expense of education and welfare the Congress tends to overrepresent those of our citizens who are extraordinarily agitated about national security and extraordinarily vigorous about making their agitation known.

It may be that the people and their representatives are making a carefully reasoned sacrifice of welfare to security. It may be, but I doubt it. The sacrifice is made so eagerly as to cause one to suspect that it is fairly painless, that indeed the American people prefer military rockets to public schools and flights to the moon to urban renewal. In a perverse way, we have grown rather attached to the cold war. It occupies us with a stirring and seemingly clear and simple challenge from outside and diverts us from problems here at home which many Americans would rather not try to solve, some because they find domestic problems tedious and pedestrian, others because they genuinely believe these problems to be personal rather than public, others because they are unwilling to be drawn into an abrasive national debate as to whether poverty, unemployment, and inadequate education are in fact national rather than local or individual concerns.

The cold war, it seems clear, is an excuse as well as a genuine cause for the diversion of our energies from domestic well-being to external security. We have been preoccupied with foreign affairs for 25 years, and while striking progress has been made in certain areas of our national life, the agenda of neglect has grown steadily longer. We can no longer afford to defer problems of slums and crime and poverty and inadequate education until some more tranquil time in the future. These problems have become urgent if not intolerable in an affluent society. It is entirely reasonable to defer domestic programs in time of an all-out national effort such as World War II, but in the present cold war it is not reasonable to defer our domestic needs until more tranquil times, for the simple reason that there may be no more tranquil times in this generation or in this century.

In the long run, the solution of our domestic problems has as vital a bearing on the success of our foreign policies as on the public happiness at home. We must therefore reassess the priorities of our public policy, with a view to redressing the disproportion between our military and space efforts on the one hand and our education and human welfare programs on the other. We must distinguish between necessity and preference in our preoccupation with national security, judging our military needs by a standard which takes due account of the fact that armaments are only one aspect of national security, that military power, as Kenneth Thompson has written, "is like the fist whose force depends on the health and vitality of the body politic and the whole society." [2]

The single-minded dedication with which we Americans have committed ourselves to the struggle with communism is a manifestation of a national tendency to interpret problems in moral and absolutist terms. We are, as Louis Hartz has pointed out, a Nation which was "born free." [3] Having experienced almost none of the anguished conflict between radicalism and reaction that has characterized European politics, we have been virtually unanimous in our adherence to the basic values of liberal democracy. We have come to identify these values with the institutional forms which they take in American society and have regarded both as having moral validity not only for ourselves but for the entire world. We have therefore been greatly shocked since our emergence as a world power to find ourselves confronted with revolutionary idealogies which reject the faith in individual liberty and limited government that has served our own society so well.

Because of these predilections, the cold war has seemed to represent a profound challenge to our moral principles as well as to our security and other national interests. We have responded by treating Communist ideology itself, as distinguished from the physical power and expansionist policies of Communist states, as a grave threat to the free world. The cold war, as a result, has been a more dangerous, costly, and irreconcilable conflict than it would be if we and the Communist states, confined it to those issues that involve the security and vital interests of the rival power blocs.

The ideological element in the cold war, reinforced by the moralist tendencies of the American people, has also had the effect of making the world conflict a much more disruptive element in American life than it would be if it were regarded primarily in terms of its effect on our national security. To an extent, the issue between the Communist and the free world is moral and ideological, but ideas and principles in themselves threaten no nation's vital interests except insofar as they are implemented in national policies. It is the latter, therefore, that are our proper concern. To the extent that we are able to remove the crusading spirit and the passions of ideology from the cold war, we can reduce its danger and intensity and relax its powerful hold on the minds and hearts of our people.

The fears and passions of ideological conflict have diverted the minds and energies of our people from the constructive tasks of a free society to a morbid preoccupation with the dangers of Communist aggression abroad and subversion and disloyalty at home. The problem did not end with the McCarthy era of a decade ago nor is it confined to the neurotic fantasies of today's radical right. The cold war malady affects a much broader spectrum of American society. It affects millions of sensible and intelligent citizens whose genuine concern with national security has persuaded them that the prosecution of the cold war is our only truly essential national responsibility, that missiles and nuclear armaments and space flights are so vital to the safety of the Nation that it is almost unpatriotic to question their cost and their proliferation, and that in the face of these necessities the internal requirements of the country—with respect to its schools and cities and public services—must be left for action at some remote time in the future—as if these requirements were not themselves vital to the national security, and as if, indeed, our generation is likely to know more tranquil days.

In the 1830's Alexis de Tocqueville saw America as a nation with a passion for peace, one in which the "principle of equality," which made it possible for a man to improve his status rapidly in civilian life, made it most unlikely that many Americans would ever be drawn to form a professional military caste. In 1961, President Eisenhower warned the Nation of the pervasive and growing power of a "military-industrial complex." Tocqueville was quite right in his judgment that the United States was unlikely to become a militarist society. We have, however, as a result of worldwide involvements and responsibilities, become a great military power, with a vast military establishment that absorbs over half of our Federal budget, profoundly influences the Nation's economy, and exercises a gradually expanding influence on public attitudes and policies.

Without becoming militarist in the sense of committing themselves to the military virtues as standards of personal behavior, the American people have nonetheless come to place great—and, in my opinion, excessive—faith in military solutions to political problems. Many Americans have come to regard our defense establishment as the heart and soul of our foreign policy, rather than as one of a number of instruments of foreign policy whose effectiveness depends not only on its size and variety but also on the skill, and restraint, with which it is used.

Our faith in the military is akin to our faith in technology. We are a people more comfortable with machines than with intellectual abstractions. The Military Establishment is a vast and enormously complex machine, a tribute to the technological genius of the American people; foreign policy is an abstract and esoteric art, widely regarded as a highly specialized occupation of eastern intellectuals, but not truly an American occupation. Our easy reliance on the Military Establishment as the foundation of our foreign policy is not unlike the reliance which we place on automobiles, televisions, and refrigerators: they work in a predictable and controllable manner, and on the rare occasions when they break down, any good mechanic can put them back in working order.

The trouble with the American technological bias is that it can conceal but not eliminate the ultimate importance of human judgment. Like any other piece of machinery, our Military Establishment can be no better than the judgment of those who control it. In a democracy, control is intended to be exercised by the people and their elected representatives. To a very considerable extent the American people are not now exercising effective control over the Armed Forces; nor indeed is the Congress, despite its primary constitutional responsibility in this field. Partly because of anxieties about the cold war, partly because of our natural technological bias, which leads us to place extraordinary faith in the ability of technicians to deal with matters that we ourselves find incomprehensible, and partly because of the vested interests of the military-industrial complex, we are permitting the vast Military Establishment largely to run itself, to determine its own needs, and to tell us what sacrifices are expected of us to sustain the national arsenal of weapons.

David Lloyd George once declared that "there is no greater fatuity than a political

---

[2] Kenneth W. Thompson, "Christian Ethics and the Dilemmas of Foreign Policy" (Durham, N.C.: Duke University Press, 1959), p. 70.

[3] Louis Hartz, "The Liberal Tradition in America" (New York: Harcourt Brace & World, Inc.), 1955.

judgment dressed in a military uniform." To the extent that the American people and the Congress shrink from questioning the size and cost of our Defense Establishment, they are permitting military men, with their highly specialized viewpoints, to make political judgments of the greatest importance regarding the priorities of public policy and the allocation of public funds.

The abnegation of responsibility by the Congress in this field is strikingly illustrated by its debates or, more accurately, nondebates, on the defense budget. When, for example, Senator McGOVERN, of South Dakota, suggested last September that Defense spending might be reduced by 5 percent, the Senate, with virtually no discussion, voted the McGovern amendment down by a vote of 70 to 2 and proceeded, after an afternoon of desultory discussion, to enact the whole Defense appropriation bill. When, later in the fall, I had the dubious honor of managing the foreign aid bill on the Senate floor through 3 weeks of extremely contentious debate, I could not help noting how astonishingly the forces of economy had picked up strength between the debate on the $50 billion Defense appropriation and the $4 billion foreign aid bill.

Again this year, the Congress is speeding the enactment of the Defense budget with splendid indifference to its size and content. By the end of February both Houses had enacted a military procurement authorization bill of over $17 billion. The only controversial item in the bill was an amendment authorizing $52 million for development of a new strategic manned bomber, which was adopted by both Houses despite the firm opposition of the Secretary of Defense. In the course of this debate, Senator NELSON, of Wisconsin, posed a most pertinent question. "I am questioning," he said, "what is apparently an established tradition—perhaps a national attitude—which holds that a bill to spend billions of dollars for the machinery of war must be rushed through the House and the Senate in a matter of hours, while a treaty to advance the cause of peace, or a program to help the underdeveloped nations of the world, or a bill to guarantee the rights of all our citizens, or a bill to advance the interests of the poor, must be scrutinized and debated and amended and thrashed over for weeks and perhaps months." [4]

"Like most other Americans," writes Julius Duscha of the Washington Post, "Members of Congress believe that the bigger the defense budget, the safer the country. And in today's world there is no question that the United States must spend billions to keep up its defenses. But recordbreaking budgets year after year do not necessarily mean a stronger Nation. The bigger any Government program gets, the greater are the dangers that funds will be wasted and that the goals of the program will become entangled in a morass of vested interests, venal political considerations, and the rivalries that inevitably evolve from them. And there is no better catharsis for huge government expenditures than informed, skeptical, and continued questioning of them." [5]

The ease with which defense budgets are enacted by Congress, as Mr. Duscha points out, is in no small degree due to the enormous importance of defense spending for the economy. Defense contractors and great numbers of workers all over the country have a vested interest in a high level of defense spending. It is the beneficiaries of the jobs and profits that defense spending creates, along with the generals and admirals, who constitute the formidable military-industrial complex. And because of the jobs and profits stimulated by defense, Members of Congress have taken a benign attitude toward waste and duplication in the defense budget that is nothing less than amazing by contrast with the deeply held convictions about economy that influence their attitudes toward education, urban renewal, or foreign aid.

The truly astonishing thing about the uncritical support which the American people and their representatives give the Military Establishment is the apparent enthusiasm with which the sacrifice of personal and community interests is made. Goldsworthy Lowes Dickinson was, if anything, understating the matter when he wrote that "Nations are quite capable of starving every other side of life—education, sanitation, housing, public health, everything that contributes to life, physical, intellectual, moral, and spiritual, in order to maintain their armaments." [6]

Many Americans may regard huge military and space programs as the only truly urgent requirements on our national agenda, but it is difficult to believe that this enthusiasm is shared by the 4.2 million Americans who are unemployed or by the 30 million Americans who have incomes of less than $3,000 a year.

While the cold war and our enormously costly national security programs preempt so much of our time and attention and national wealth, the most important resources of our country—its human resources—are being extravagantly wasted and neglected. As the President's recently issued Manpower report points out, unemployment in 1963 increased to 5.7 percent of the labor force despite major advances in production and employment; unemployment of young workers, between the ages of 16 and 19, reached 17 percent in 1963 while unemployment among nonwhite Americans stood at 11 percent; despite an unemployment rate twice as high for school dropouts as for high school graduates, 30 percent of all young people continue to end their education before completing high school; despite the decline in unskilled jobs and the expanding demand for professional, technical, clerical, and service workers—for workers, that is, with at least high school education and specialized training—nearly a million young people are leaving school every year without having completed elementary or secondary school.

These are only a few of the statistics of hopelessness and deprivation that afflicts the lives of millions of Americans. Unless the present trend is reversed, 7½ million of the 26 million young people between 16 and 24 who will enter the labor force during the present decade will be school dropouts. These undereducated young men and women are for the most part the children of poverty. The basic fact to be contended with, as President Johnson pointed out in his message to the Congress on poverty, is that "There are millions of Americans—one-fifth of our people—who have not shared in the abundance which has been granted to most of us, and on whom the gates of opportunity have been closed." It is one of the tragedies, and one of the great failures, of our national life that in the years between 1936 and 1964, while the total wealth and productivity of the Nation grew tremendously, the number of ill-housed, ill-clothed, and ill-fed Americans dropped only from one-third to one-fifth of our population.

The statistics of poverty, though striking, are antiseptic compared to the actual misery and hopelessness of being poor. The real meaning of poverty is not just losses of learning and productivity, but thousands of angry and dispossessed teenagers who make our city streets dangerous for "respectable" citizens; 350,000 youngsters across the Nation who form what the Secretary of Labor has described as an "outlaw pack" because they have stopped looking for work, are unemployed today, and will remain so for the rest of their lives; children in a blighted mining town in eastern Kentucky who are potbellied and anemic from lack of food; sharecroppers, white as well as black, living in squalid shacks and working for a few dollars a day—when they can find work at all—anywhere in a crescent of rural poverty that extends from southern Virginia along the Coastal Plain across Georgia and Alabama into the Mississippi Delta and the Ozarks.

Poverty in America has a radically different moral connotation from poverty in underdeveloped nations. The poor countries of the world have the excuse, for what it is worth, that the means of feeding, housing, and educating their people simply do not exist. In America the means do exist; the failure is essentially one of distribution. The children who go to bed hungry in a Harlem slum or a West Virginia mining town are not being deprived because no food can be found to give them; they are going to bed hungry because, despite all our miracles of invention and production, we have not yet found a way to make the necessities of life available to all of our citizens—including those whose failure is not a lack of personal industry or initiative but only an unwise choice of parents.

What is to be done? In his poverty message to the Congress, the President made proposals for a constructive start—although only a start—toward meeting the problem of poverty in America. Under the proposed Economic Opportunity Act, a National Job Corps would undertake the social rehabilitation, through basic education, job training, and work experience, of 100,000 young men "whose background, health, and education makes them least fit for useful work;" a work-training program would provide vocational education and part-time jobs for 200,000 young men and women in projects to be developed by State and local governments and nonprofit agencies; a national work-study program would provide Federal funds for part-time jobs for 140,000 young Americans who, though qualified, would otherwise be unable to afford to go to college. In addition, the President's program would encourage and help finance local antipoverty programs, would enlist volunteers in the war against poverty, and would undertake other financial and educational programs, all to be coordinated under a new Office of Economic Opportunity.

President Johnson's program can serve as a point of departure for a full-scale national program to eliminate poverty and unemployment from American life. Such a program must be mounted through government fiscal policy, public works, and expansive economic policies, but primarily through programs of education and training. Education is not the whole solution but it is, by all available evidence, the keystone of the arch. As John Kenneth Galbraith recently wrote, "To the best of knowledge there is no place in the world where a well-educated population is really poor." [7]

Building on this premise, Professor Galbraith proposes that the hundred lowest income communities in the country be designated as "special educational districts" to be equipped with primary and secondary schools and recreational and transportation facilities of the highest quality. The schools would be staffed by an elite corps of highly qualified, highly trained, and well-paid teachers. Grants would be provided for food and clothing for the pupils when needed as well as counseling and medical and psychiatric services.

---

[4] CONGRESSIONAL RECORD, Feb. 26, 1964, p. 3720.

[5] Julius Duscha, "Arms and the Big Money Men," Harper's, March 1964, p. 40.

[6] Goldworthy Lowes Dickinson, "The Choice Before Us" (London: George Allen & Unwin, Ltd., 1917) pp. 200–201.

[7] John Kenneth Galbraith, "Let Us Begin: An Invitation to Action on Poverty," Harper's, March 1964, p. 26.

After 1 year the program would be extended to another 150 or 200 areas and eventually to cover all areas of great need. As income rises in the recipient school districts, the schools would be turned back to the localities.[8]

The Galbraith plan is an excellent one and I, for one, would welcome the submission of such a plan to the Congress, although there can be no doubt that it would generate great controversy. I think that we must face up to the need for major new legislation in the field of education regardless of the partisan divisions which it may provoke. We must do so if we truly mean to alleviate the scourge of poverty in American life. And although it is clear that there is no simple dollar for dollar relationship between savings in the defense and space budgets and congressional willingness to appropriate money for education, it seems to me quite possible that the elimination of superfluous defense and space funds would in fact help overcome the reluctance to support education legislation of certain Members of Congress whose concern with economy is genuine and strong.

As a result of the rapidly spreading automation of the American economy, the traditional mechanism of distributing purchasing power through employment and income is breaking down. In essence, our ability to generate economic demand is falling steadily behind our ability to increase the supply of purchasable goods and services. It may be that the growing disequilibrium is so profound as to be irreversible by government policies designed to stimulate economic growth and full employment. If so, we shall eventually have to devise new ways of providing income to those who cannot be put to gainful work.

Whether truly radical measures will be required or not, there is no question that if our national war on poverty is to come anywhere near the goal of total victory proclaimed by President Johnson, it will require enormous public effort and a great deal of public money. To those who shrink from such a commitment in the name of economy, I would emphasize that the elimination of poverty and inadequate education are at least as important to the security of our country in the long run as the maintenance of a strong defense establishment and a good deal more important than a voyage to the moon. I commend to them the words of Edmund Burke, that "Economy is a distributive virtue, and consists not in saving but in selection. Parsimony requires no providence, no sagacity, no powers of combination, no comparison, no judgment."[9]

The cold war has diverted us from problems both quantitative and qualitative. The quantitative problem is essentially to devise ways of elevating the one-fifth of our people who live in poverty to the level of the four-fifths who live in greater material abundance than any other society in human history. The qualitative problem is to find ways of bringing meaning and purpose and standards of excellence into the lives of a people who, because of their material affluence, are free, as no people have ever been before, to shape a spiritual and intellectual environment of their own choice.

While the attention and energy of our public policy have been focused through these postwar years on crises in Berlin and Cuba and the Far East, America, almost behind our backs, has been more and more taking on the physical appearance, and the cultural atmosphere, of a honky-tonk of continental proportions. This is not to suggest that the quest for intellectual, artistic, and scientific excellence has been abandoned in our country. On the contrary, it is being pursued by more people with more energy and more striking results than at any time in our history. But the pursuit of excellence and creativity remains the occupation of an elite segment of our society, a large and brilliant elite, to be sure, but one which is still largely isolated from the nation as a whole. The creative elements of American society are probably growing larger and are constantly reaching new levels of achievement, but they are not yet successfully communicating their standards to the generality of their countrymen.

I do not think we can avoid the conclusion that despite a broadening interest in the arts, the level of popular taste in America remains far below what it can be and ought to be.

The evidences are all around us: in the mindless trivia that fill the television channels and occupy the leisure hours of tens of millions of Americans; in the paperback pornography that has become a major national industry; in the gaudy and chaotic architecture that clutters the central areas of our great cities from Manhattan to Miami and Los Angeles and in the festering slums that surround them.

It can be pointed out, and rightly, that all this is mitigated by the growing popularity of good music and good art, of the serious theater and of quality films. But this, I fear, is confined to the "other America," to the large but isolated elite who are supposed to set, or at least suggest, popular standards of taste and style but who somehow are failing to do so.

Nowhere is the vulgarization of standards more conspicuous than in the artifacts of urban America. It is difficult to judge what is the most depressing sight in New York City: the jungle of antiseptic glass towers that have taken order and humanity out of the midtown area, the sprawling slums that are never far away, or the dreary acres of identical brick housing, devoid of any charm or individuality, that constitute urban renewal. It is equally difficult to understand how Washington, the Nation's beautiful, monumental city, the living symbol of what is valued and emulated in America, should have permitted itself to be marred by stark, prison-like new Federal office buildings that suggest arid dehumanized activities within them, or by the elephantine Rayburn House Office Building, built in what has been described as the early Mussolini style of architecture, a building so ugly that one can only regard it as the product of an organized effort in tastelessness and vulgarity.

I feel certain that this debasement of standards is not inevitable in contemporary America. About a half mile from the new prisonlike office buildings in Washington stands the new National Geographic building, an elegant example of contemporary architecture, a structure of grace and dignity and human warmth. A half mile in another direction stands the Old Senate Office Building, a model of dignity and beauty in the classic style. This contrast symbolizes the polarization of standards between "two Americas" that constitutes a growing problem of our national life. Somehow we must strive to bring the two, alienated cultures of our country together again, to make the quest for beauty and excellence a truly national endeavor.

In a recently published book of incisive text and brilliant photographs illustrating "the planned deterioration of America's landscape," Peter Blake offers the following bleak prognosis for America's cities:

"With a very, very few exceptions, our cities seem to be headed for a grim future indeed—unless we determine to make some radical changes. That future looks something like this: first, our cities will be inhabited solely by the very poor (generally colored) and the very rich (generally white)—plus a few divisions of police to protect the latter from the former. Second, they will become primarily places to work in—places for office buildings and for light industry. Third, they will become totally ghettofied—not merely in terms of racial segregation, but also in terms of usage: there will be office ghettos, industrial ghettos, apartment ghettos, amusement or culture ghettos (like Manhattan's gold-plated Rockefeller ghetto, Lincoln Center), bureaucratic ghettos, shopping ghettos, medical-center ghettos. In other words, there will be virtually no mixed uses of streets or of neighborhoods, so that most areas of the city will be alive for mere fractions of each day or weeks, and as deserted as Wall Street on a weekend for the rest of the time."[10]

One can hope that it will not come to this, that before our cities are lost to glass palaces and slums, the suburbs to housing projects and automobile junkyards, the highways to gaudy motels, and the countryside to a solid wall of billboards, the vulgarizing trend will be arrested and reversed. If it is to be reversed, we must begin by recognizing that private property rights cannot extend to the debauching of America's landscape. An ugly city is not like a bad painting, which can be shut up in a museum out of the sight of anyone who does not wish to see it. Our cities and highways and countryside are part of our common legacy. They either enrich or impoverish our lives and it cannot be left to the sole discretion of promoters and developers to determine which it will be.

There is so much in the American environment that is good, so much that is both beautiful and efficient, that the widespread prevalence of disorder and decay is beyond excuse or understanding.

Obviously, we cannot impose high standards by force, as, in certain respects the Russians have—by the simple, puritanical expedient of withdrawing from their people those forms of art and recreation that are deemed to be vulgar and decadent. Only by very limited—though still important—means can we use the law to combat ugliness and bad taste: by establishing and enforcing high architectural standards for urban construction and urban renewal; by restricting the placement of billboards on our highways; by preserving our shrinking areas of natural beauty in national parks; by revising the practice of rewarding slum landlords who allow their property to deteriorate with low tax assessments; by imposing some order on the planning of schools and housing and parks and expressways.

Beyond these limited measures of community action we must strive as individuals to bring together the two Americas, to restore the lines of communication between the minority that value excellence and the majority that settle for mediocrity. I do not know how this is to be accomplished, but I think there is a clue in what seems to me to be one of the major sources of the postwar vulgarization of American life: the combination of widespread affluence with the intense anxieties generated by the cold war, resulting both in a fixation on foreign problems and in an almost compulsive search for release from anxiety through trivial and tasteless, but convenient and diverting, channels of popular amusement. The cold war, writes David Riesman, "is a distraction from serious thought about man's condition on the planet."[11]

If there is any validity in this analysis, then it follows that the first thing we must do toward raising the quality of American life is to turn some part of our thoughts and

[8] Ibid.

[9] Edmund Burke, Letter to a Noble Lord (1796).

[10] Peter Blake, "God's Own Junkyard" (New York: Holt, Rhinehart & Winston 1964), p. 23.

[11] David Riesman, "Abundance for What?" (Garden City New York; Doubleday & Co., Inc., 1964), p. 98.

our creative energies away from the cold war that has engaged them for so long back in on America itself. If we do this, and then let nature take its course, we may find that the most vital resources of our Nation, for its public happiness and its security as well, remain locked within our own frontiers, in our cities and in our countryside, in our work and in our leisure, in the hearts and minds of our people.

WHEAT AND COTTON LEGISLATION—THE WHEAT BILL

Mr. McGOVERN. Mr. President, I want to take about 2 minutes to demonstrate how completely inaccurate is an advertisement sponsored by Farmers for Freedom, P. J. Flaten, treasurer, Hoople, N. Dak., and published on page B3 in this morning's Washington Post.

The advertisement advises members of the House of Representatives to vote against the wheat-cotton bill, stating:

Freeman has avoided extensive hearings on wheat legislation before the House Agriculture Committee.

The implication is that the House has not given real consideration to the Senate wheat proposal, or any other wheat legislation, because of the manner in which the bill to be voted upon tomorrow has come before the House.

The fact is that the House Agriculture Committee and its Wheat Subcommittee have held 10 days of hearings on wheat legislation during July and December of 1963 and in January of 1964.

The committee and its Wheat Subcommittee also have held 10 executive sessions on wheat legislation in June and September of 1963, and February and March of 1964, finally recommending a measure identical to the Senate-passed wheat provision.

The committee started its consideration of wheat legislation last June 7 with 39 different bills before it. It held hearings for 3 days in July and the subcommittee chairman, Representative GRAHAM PURCELL, of Texas, subsequently introduced a clean draft bill embodying the voluntary wheat certificate plan.

Hearings were held again on December 11 and 16, 1963, and continued on January 7, 8, 9, 17, and 22, 1964. The subcommittee subsequently met in executive sessions on February 14, 15, 17, 20, 21, 24, and 27 and reported the voluntary certificate plan, nearly identical to the Senate wheat measure, to the full committee.

The full committee of the House met on March 10, 1964, after the Senate measure had been reported and passed, and voted to report favorably to the House floor a wheat bill identical to the Senate measure.

Mr. President, the House Agriculture Committee and its Subcommittee on Wheat have thus considered the wheat bill on a total of 20 different occasions.

Few bills in this Congress have been subjected to more diligent and thorough consideration than the wheat measure; consequently, no more unwarranted statement could have been made by farmers for freedom than the statement that House hearings were avoided.

Of course, no one should be surprised at the misinformation in this morning's advertisement.

Farmers for Freedom is one of the recommended misinformation sources of the John Birch Society. It first came to my attention through the May 1963, issue of the John Birch Society Bulletin which, referring to the wheat referendum, said:

For further information write Farmers for Freedom, Box 1427, Fargo, N. Dak., or go to any office of the Farm Bureau.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the text of another full-page advertisement, this one sponsored by the Farmers Union Grain Terminal Association and its affiliates, entitled "Keep the Cobwebs Off the Cash Register," and published in newspapers in the northwestern wheat States. The advertisement translates into dollars the meaning of the House vote tomorrow, so far as the prosperity of the wheat States is concerned.

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

KEEP THE COBWEBS OFF THE CASH REGISTER

The wheat bill that will be voted on in the U.S. House of Representatives in Washington next week will determine how good—or bad—business will be in your area this year and in 1965.

This wheat bill means a difference between a price support of $1.26 a bushel, or $1.70 to $1.80 a bushel, on the 1964 wheat crop. That's about 50 cents per bushel.

Defeat of this wheat bill would mean a wheat income loss this year of $50 million in North Dakota; $17 million in South Dakota; $36 million in Montana; and $10 million in Minnesota.

What does this mean to your local community?

If 500,000 bushels of wheat flows annually through your local elevator to market, it means $250,000 is at stake for the farmers and business people of your hometown.

Don't forget—if the farm bill loses, wheat farmers will go to all-out production. This cheap wheat will lower even more today's low feed grain and livestock prices.

Congress will decide. Your Congressman and the House of Representatives vote next week, April 8. They will make a decision which will mean 50 cents a bushel on all the wheat grown in your area.

The Senate has already passed this farm bill. Every Senator in this area, Democratic and Republican, voted for this bill. To protect wheat income, all of your Representatives must do the same.

We are appealing to Members of the House of Representatives to vote in favor of this bill.

This is not a matter of politics. This is not a matter of farm organizations. This is a matter of 50 cents a bushel. This vote will determine what income wheat farmers will get and spend in the local towns and cities.

This message is sponsored and paid for as a public service by Farmers Union Grain Terminal Association, Great Plains Supply Co., the Terminal Agency, Inc., and your local cooperative elevator and lumberyard.

ARA-FINANCED HARDBOARD PLANT GENERATES NEW JOB OPPORTUNITIES IN RAPIDLY EXPANDING INDUSTRY

Mr. PROXMIRE. Mr. President, 3 years ago, Congress passed the Area Redevelopment Act, a law designed to help create new job opportunities in high-unemployment areas of the United States.

Administration of that act has not always been easy. The act seeks to establish a broadly based partnership of local, State, and Federal effort and funds, public and private, focusing that effort on the problems of economically distressed communities.

For a total Federal investment of $227.4 million—three-fourths of it in the form of interest-bearing loans—ARA is helping to generate well over 100,000 permanent full-time jobs. The program has launched 266 research projects covering a wide variety of subjects, and is providing job retraining for 28,311 unemployed workers.

Those are the bare statistics. Look behind them and we see new life and new hope for 100,000 families, living under more healthful conditions, better housed, better fed, better clothed. These are important to America.

Yet even with this successful record, we find ARA bitterly criticized at times, even denounced for doing the very thing it was created to do—generating new employment.

One of the more recent examples of this criticism involves an ARA project to help build a hardboard manufacturing plant in Superior, in my own State of Wisconsin. Specifically, the loan went to Superior Fiber Products, Inc. Critics emphasize that ARA is putting $4 million into this project, without mentioning that this is an interest-bearing loan, repayable to the Federal Treasury over the next 18 years. Nor do these critics mention the fact that the Prudential Insurance Co. had enough confidence in this business enterprise to invest $1.3 million in it. Nor do they mention that private citizens and public-spirited organizations in the Superior area, put in $630,000 through the Superior-Douglas County Industrial Development Corp. Do not forget that the firm itself put in a big chunk of equity.

The project will create 244 direct and directly related jobs, at the mill and in associated logging and hauling operations. It is also expected to result in a number of satellite industries. The project will be of major importance in broadening the base of the economy of hard-hit Douglas County. This county is part of the Duluth-Superior labor market area where 5,800 of a 60,100 labor force are jobless. This is 9.7 percent of the work force, more than half again the 5.7 percent of the national average.

One might well ask: Just what could be wrong with such a project? What could be wrong with generating new jobs?

In this case the criticism seems to be generated by other plants manufacturing similar products. The protests seem to stem from fear of competition. A second complaint concerns the fact that part of the machinery for the new plant comes from Sweden.

This is no time for irresponsible complaints, especially when we are dealing with efforts to create new jobs.

First, the U.S. hardboard industry is expanding rapidly. Production has

jumped from 750 million square feet in 1947 to more than 2 billion square feet in 1962. ARA officials tell me that they met on February 24 with several hardboard producers and officials of the American Hardboard Association to review the growth of this industry. All members of the industry present at that meeting said they were planning to expand production.

Such expansion certainly will be necessary over the next few years. The U.S. Department of Commerce estimates that by 1968 the total U.S. consumption of hardboard will be approximately 3.5 billion square feet annually.

This is more than the present total installed capacity. At ARA's February 24 meeting, Donald Linville, executive secretary of the hardboard association, admitted that all 18 U.S. hardboard plants, operating at full capacity, 24 hours a day, 7 days a week, 52 weeks a year, could produce only 3.1 billion square feet of hardboard annually.

Computing capacity on this impossible forced draft basis, hardboard plants in Wisconsin and Minnesota can claim to be operating at only 75 percent of capacity. Of course, this is ridiculous. This level translates into an average operating week of 126 hours.

Imports of hardboard have increased in recent years; in 1962, they accounted for 13 percent of the U.S. consumption of hardboard. The Superior plant will utilize the most modern production techniques; it should compete effectively against these imports.

The second complaint, that a portion of the machinery to be installed in the plant is of Swedish construction, seems even more spurious. Total machinery investment for the entire plant is $4.3 million. Three-fourths of it will be manufactured in the United States. The rest will be special machinery available only in Sweden.

The Superior plant is designed to manufacture hardboard using defibrated wood fiber, formed wet. This method was developed in Sweden by the A. B. Defibrator Co., and some of the equipment required for this process and this plant must be purchased in Sweden from that company. In recent years, this firm, a recognized leader in its field, has designed and constructed about 125 plants throughout the world, including one in Duluth, Minn.

The Superior firm plans to have this company design and supervise construction of this plant on a turnkey basis. Total project cost will be $6.3 million. The Superior plant will be constructed with U.S. labor and materials; and three-fourths of the machinery and equipment for the plant will be built in U.S. factories.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

[No. 121 Leg.]

Aiken	Bayh	Brewster
Allott	Beall	Burdick
Anderson	Bible	Cannon
Bartlett	Boggs	Carlson
Case	Johnston	Muskie
Church	Keating	Nelson
Clark	Kennedy	Neuberger
Cooper	Kuchel	Pastore
Cotton	Long, Mo.	Pearson
Curtis	Long, La.	Pell
Dirksen	Magnuson	Proxmire
Douglas	Mansfield	Ribicoff
Gore	McCarthy	Saltonstall
Hart	McGovern	Scott
Hayden	McIntyre	Smith
Hickenlooper	McNamara	Sparkman
Holland	Metcalf	Stennis
Hruska	Miller	Symington
Humphrey	Monroney	Williams, N.J.
Inouye	Morton	Williams, Del.
Jackson	Moss	Yarborough
Javits	Mundt	Young, Ohio

The PRESIDING OFFICER. A quorum is present.

CIVIL RIGHTS ACT OF 1963

The Senate resumed the consideration of the bill (H.R. 7152) to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in 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. JAVITS. Mr. President, today there occurred an event which I know will sadden everyone, because the life of a man is precious, especially the life of one who has devoted himself to an idealistic cause and is willing to sacrifice everything in its interest. So it is tragic to report that in a demonstration at a school construction project—a demonstration which related to an effort to protest de facto school segregation—the Reverend Bruce Klunder, adviser at the Student Christian Union at Western Reserve University, in Cleveland, Ohio, who was part of a group of the demonstrators, was accidentally killed in the course of an effort to prevent a bulldozer from operating in connection with that project.

Mr. President, no one—least of all, myself—condones violence or breaches of law. I speak of this event, not only because I am sure that in the mind of Reverend Klunder was the belief that he was serving a highly idealistic cause, but, in addition, because he gave his life in that effort, I believe that tragic occurrence is worthy of note by us as we debate the issue now before the Senate. It shows how seriously and dangerously this issue can affect our society, how exacerbated tempers can become, and how serious to individuals can be the events engendered by the deep feelings of injustice held by a large part of the population because of the denial to them of what they regard as their rights as Americans.

THE NEW YORK POLICY AND PRACTICE AGAINST RACIAL IMBALANCE IN PUBLIC SCHOOLS

Mr. President, I wish to speak now on a totally different aspect of the civil rights struggle. Time and time again, I have called the attention of the Senate to the policy and practice of the State of New York and the city of New York in correcting racial imbalance into their public-school systems. Rather than constituting a source of criticism—although some Senators have tried to make it that—I believe it is a source of credit for my city and my State that they are moving so vigorously in their efforts to go even beyond the question of segregation, and are attempting to deal with what properly is regarded by capable and wise educators as being inimical to the education of children; namely, an undue proportion of racial delineation in a public school.

Therefore, Mr. President, I ask unanimous consent to have printed at this point in the RECORD a special message by James E. Allen, Jr., the New York State Commissioner of Education, addressed to "All chief local school administrators and presidents of boards of education." The letter or memorandum is headed:

Subject: Racial Imbalance in Schools.

It is dated June 14, 1963.

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

THE UNIVERSITY OF THE STATE OF NEW YORK, THE STATE EDUCATION DEPARTMENT, OFFICE OF THE PRESIDENT OF THE UNIVERSITY AND COMMISSIONER OF EDUCATION

Albany, June 14, 1963.

To: All chief local school administrators and presidents of boards of education.

Subject: Racial imbalance in schools.

The State education department is constantly seeking to improve policies and practices which will bring about the full operation of the principle of equality of educational opportunity for persons of all social, economic, and cultural backgrounds. In line with this effort and after studying the implications of the 1954 decision of the U.S. Supreme Court, the board of regents adopted and announced in January 1961 a statement of policy which contained the following paragraph:

"The State of New York has long held the principle that equal opportunity for all children, without regard to differences in economic, national, religious, or racial background, is a manifestation of the vitality of our American democratic society and is essential to its continuation. This fundamental educational principle has long since been written into education law and policy. Subsequent events have repeatedly given it moral reaffirmation. Nevertheless, all citizens have the responsibility to reexamine the schools within their local systems in order to determine whether they conform to this standard so clearly seen to be the right of every child."

The regents' statement goes on to point out that modern psychological and sociological knowledge seems to indicate that in schools in which the enrollment is largely from a minority group of homogeneous, ethnic origin, the personality of these minority group children may be damaged. There is a decrease in motivation and thus an impairment of ability to learn. Public education in such a situation is socially unrealistic, blocking the attainment of the goals of democratic education, and wasteful of manpower and talent, whether the situation occurs by law or by fact.

To implement the regents' policy, the department has carried on through its division of intercultural relations, a continuing program of education and assistance aimed toward securing greater understanding and constructive action throughout the schools

and colleges of the State. Important progress has been made, especially in higher education.

To assemble additional information on the problem, the department conducted in November 1961, a racial census of the elementary schools of the State. The findings of that study were reported in July 1962. The report identified a number of districts in which the ratio of Negro to white pupils was relatively high and suggested that these districts should give added attention to this situation.

In June 1962, I appointed a three-member Advisory Committee on Human Relations and Community Tensions to advise and assist the department and the local school districts. From its studies, the committee has developed a statement of principles for dealing with racial imbalance in the schools. A copy of this statement is enclosed.

The position of the department, based on the policy of the regents, and the principles of the Commissioner's Advisory Committee, is that the racial imbalance existing in a school in which the enrollment is wholly or predominantly Negro interferes with the achievement of equality of educational opportunity and must therefore be eliminated from the schools of New York State.

If this is to be accomplished, there must be corrective action in each community where such imbalance exists. In keeping with the principle of local control, it is the responsibility of the local school authorities in such communities to develop and implement the necessary plans.

It is recognizd that in some communities residential patterns and other factors may present serious obstacles to the attainment of racially balanced schools. This does not, however, relieve the school authorities of their responsibility for doing everything within their power, consistent with the principles of sound education, to achieve an equitable balance.

In order that the department may know what your plans are for carrying out this responsibility, I request that you submit to me by September 1, 1963, the following information:

1. A statement indicating the situation in your district with regard to any problem of racial imbalance, regardless of the number of Negro children enrolled, or to the actual existence of or trend toward racial imbalance. At this time and for the purpose of this report, a racially imbalanced school is defined as one having 50 percent or more Negro pupils enrolled.

2. A statement of policy by your board of education with respect to the maintenance of racial balance in your schools.

3. In districts where racial imbalance exists, or is a problem, a report of progress made toward eliminating it.

4. In such districts, your plan for further action, including estimates of the additional cost, if any, and of the time required for carrying out your plan.

In addition to this request for information from your district, I have directed the staff of the State Education Department to reexamine all State laws, rules, regulations, policies and programs pertinent to the issue here under discussion, and to submit to me by the same date any revisions that may be necessary for making them more effective instruments for the elimination of racial imbalance.

These requests for more positive action to eliminate racial imbalance in the schools of New York State are a logical extension of State law and policy, necessary if the principle of equality of educational opportunity is to apply to all, regardless of race, color, creed, or economic background. I am aware that many of you have already taken constructive action in this regard and that you will continue to do so. I am confident that working together we shall be able to achieve solutions which will truly serve the purposes of education in a democracy.

Please let me know how the department can be of assistance to you in this important effort.

Sincerely,

JAMES E. ALLEN, Jr.,
Commissioner of Education.

GUIDING PRINCIPLES FOR DEALING WITH DE FACTO SEGREGATION IN PUBLIC SCHOOLS

(Drafted by the State education commissioner's advisory committee on human relations and community tensions)

In contemporary America, race or color is unfortunately associated with status distinctions among groups of human beings. The public schools reflect this larger social fact in that the proportion of Negroes and whites in a given school is often associated with the status of the school. The educational quality and performance to be expected from that school are frequently expressed in terms of the racial complexion and general status assigned to the school. It is well recognized that in most cases a school enrolling a large proportion of Negro students is viewed as a lower status school. It is also true, of course, that an all white school enrolling a substantial proportion of children from culturally deprived homes is frequently considered less desirable.

A cardinal principle, therefore, in the effective desegregation of a public school system is that all of the schools which comprise that system should have an equitable distribution of the various ethnic and cultural groups in the municipality or the school district. Where serious imbalance exists the school with the highest proportion of minority group and lower status children tends to receive more such children as parents who are able to do so move to neighborhoods and schools of higher status.

A program which seeks an equitable distribution of majority and minority group children in all of the schools of a district offers several advantages. It will enable all children to profit from acquaintance with others of different backgrounds than their own, it will reduce distinctions among schools based on noneducational factors, and will probably stabilize the shifts of enrollment which often follow the arrival of minority group children in disproportionate numbers in a particular school.

The committee recognizes that long established patterns and community customs are not easily or quickly changed and that psychological and social factors operate on all sides of such a situation as the one now before you. We therefore suggest six principles which seem to us relevant to the whole question of racial balance in the schools.

1. The common school has long been viewed as a basic social instrument in attaining our traditional American goals of equal opportunity and personal fulfillment. The presence in a single school of children from varied racial, cultural, socioeconomic, and religious backgrounds is an important element in the preparation of young people for active participation in the social and political affairs of our democracy.

2. In forming school policies, every educationally sound action should be taken to assure not only passive tolerance but active acceptance of and genuine respect for children from every segment of the community, with particular attention given to those from minority groups that may have been the objects of discriminatory mistreatment.

3. No action, direct or indirect, overt or covert, to exclude any child or group of children from a public school because of ethnic, racial, religious, or other educationally irrelevant reasons should be taken by any public agency. Wherever such action has occurred it is the obligation of the school authorities to correct it as quickly as possible.

4. No action should be taken which implies that any school or any group of pupils is socially inferior or superior to another, or which suggests that schoolmates of one group are to be preferred to schoolmates of another. In establishing school attendance areas one of the objectives should be to create in each school, a student body that will represent as nearly as possible a cross-section of the population of the entire school district, but with due consideration also for other important educational criteria including such practical matters as the distance children must travel from home to school.

5. A neighborhood school offers important educational values which should not be overlooked. The relation between a school and a definable community with which it is identified can, in many cases, lead to more effective participation by parents and other citizens in the support and guidance of the school. It can stimulate sound concern for the welfare of the school and its pupils and can lead to beneficial communication between the school staff and the community that staff serves.

6. When a neighborhood school becomes improperly exclusive in fact or in spirit, when it is viewed as being reserved for certain community groups, or when its effect is to create or continue a ghetto-type situation it does not serve the purposes of democratic education.

JUNE 17, 1963.

Mr. JAVITS. Mr. President, I point out, first, the definition of "racial imbalance," as we in New York see it in the interest of education; namely:

A racially imbalanced school is defined as one having 50 percent or more Negro pupils enrolled.

It seems to me that makes very clear the distinction between what we in the State of New York are doing and the provision of the bill about which the Senate is struggling. Obviously, a completely segregated school for Negroes has no white students, whereas we in New York are talking about schools which have both white students and Negro students, but which in our judgment are inadvisably set up for educational purposes when 50 percent or more of the students in the school are members of one race. What is sought to be achieved is an equitable balance.

The message from Commissioner Allen makes clear that whatever the authorities do must be "consistent with the principles of sound education."

I think this is the dominant standard in the State of New York; and, in my judgment, it reflects great credit on the State of New York. I commend to the consideration of other States, the New York standard as one which properly should be set with respect to the racial population of the public schools.

Mr. LONG of Louisiana. Mr. President, at this point, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. Can the Senator tell me what is evil about having colored students study with other colored students—in other words, study with a substantial number of their own kind of people—or, for that matter, be associated with them either in a schoolroom or in their neighborhood? Wherein are those colored children being deprived of their constitutional rights or discriminated against merely because they attend a school with other children

of their own neighborhood, a majority of which may be colored?

Mr. JAVITS. Let me say to the Senator from Louisiana that I do not like the use of the word "evil" in that connection; I do not think this situation deals with anything "evil." But I believe it is against public policy and against the national interest, to have a proportion—for the sake of this debate, I say beyond one-half—of the children who are concentrated in a school members of the Negro race, inasmuch as experience has demonstrated—and that is also our judgment, based on experience in the field of education—that such a concentration, under the conditions involved in the national issue of segregation, has a tendency to make it more difficult for those children to learn and to develop and to obtain the greatest possible benefits from their education, and that the tendency and the experience have been that that situation results in a lower level of educational facilities and in a lower level of teaching. This belief is based upon a very considerable experience, which has been dealt with time and again in many reports; and it is so because it exists within the framework of a national problem of segregated education.

Hence, the New York school authorities—notwithstanding the fact that we in New York do not have a "segregation problem" within the meaning of the 1954 school desegregation decision—feel that, in educational terms, we had to bring this about in a way that would be convenient and congenial to the educational process, and that we had to make considered efforts to effectuate it.

Let us remember that the decision of the Supreme Court in the case of Brown against the Board of Education dealt with a situation in which there was absolute and complete segregation mandated by the State and local governments. That is why I put what I am saying now—in connection with the action of New York in dealing affirmatively with the quite different problem of racial imbalance—on pedagogical grounds rather than on constitutional or legal grounds.

I feel that the schools in the State of New York are certainly complying fully with the principles of the decision of the Supreme Court in the case of Brown against Board of Education. However, what we in New York are doing in that connection is not directed solely toward bringing our schools abreast of the principles in that decision; in addition, we are providing a climate which we believe will give all our children, including particularly our Negro children, the best educational opportunities. Pedagogically there is proof that, considering the climate of segregation as a practice in significant parts of the country and considering the general national concern over it, the best educational opportunity requires—it is not easy to do, but if we can do it—a correction of such situations of racial imbalance, as I have defined them.

Mr. LONG of Louisiana. Why not give the colored children in neighborhoods that are predominantly colored the best teachers available? Why would that not settle the problem, rather than moving colored children across town into a strange neighborhood?

Mr. JAVITS. There are two answers to that question. First we should do that, and more of it. We are trying to do that. The level of education for everyone should be raised; and it certainly should be raised in the schools which have suffered in the way that I have described. A great effort is being made, and should be made, in that regard.

The Senator has spoken of moving the children out of their neighborhoods. No one is moving children out of their neighborhoods against their will or against the will of their parents, as yet.

There is some discussion as to whether the so-called Princeton plan, which would pair adjacent schools and would concentrate children attending certain grades in one school and those of the other grades in the other school, would result in any enforced transportation. That question has not yet been decided, nor is it being done. The only children who are now being taken from one area of the city to another are children who have requested it and whose parents have requested it, based upon the fact that certain schools have been found underutilized. Therefore applications by parents for children to be admitted to such schools have been accepted, and the children have been admitted to public schools some distance from their homes. But I emphasize that no one is being compelled to go, or carried against his will. It may happen, but it has not yet happened.

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

Mr. JAVITS. I yield.

Mr. MORTON. Is it the policy of the school board in New York City to get the program down to the point at which less than 50 percent, let us say, of the students in one school would be of the Negro race?

Mr. JAVITS. The memorandum which I have read is the State memorandum. It is the opinion of the State educational authorities. It is not yet a policy in the city of New York. At present, in the city of New York, the objective has been considerably more limited. In 18 percent of the New York City schools the preponderance of Negro pupils is in the 90 percent range, as against 10 percent of pupils of the white or other races.

It is felt in New York City that that is inadvisable, again from a pedagogical point of view. The effort is being made in that 18 percent of the schools to restore a better balance. But the city of New York has not subscribed to the 50 percent standard. It is a kind of optimum standard which the State commissioner of education, Dr. Allen, had issued as a desideratum. I placed his memorandum in the RECORD. That has reference to the 50 percent.

Mr. MORTON. That approach might create a difficult problem in the District of Columbia, where 82 percent of all the children in the public schools are of the Negro race.

Mr. JAVITS. The Senator is correct.

Mr. MORTON. If the 50–50 plan were followed, no one would go to school.

Mr. JAVITS. The Senator is absolutely correct. I did not know what the Senator's final point was.

Mr. MORTON. The condition would be terrible.

Mr. JAVITS. Of course, there is nothing like that in the ideas which I have developed. It would merely be an optimum standard which the commissioner has set, and which he hopes might be attained in the State of New York.

TITLE VI: NONDISCRIMINATORY USE OF FEDERAL FUNDS

I shall use a little time this evening to say a word or two about title VI.

My reason for speaking on the subject of title VI is that on a number of previous occasions—some seven in number—within the past year I have moved in relation to various bills to prohibit the Federal Government from giving aid to State programs in which segregation is involved: On May 1, 1963, in regard to the Farmers Home Administration in H.R. 5517, supplemental appropriations bill; on May 27, 1963, in regard to S. 1576, the mental health centers construction bill; on August 7, 1963, in regard to the Hill-Burton Hospital Construction Act in the Labor-HEW appropriations bill; on August 14, 1963, in regard to S. 1321, the National Service Corps bill; on September 12, 1963, in regard to H.R. 12, the medical education bill; on September 26, 1963, in regard to the Agricultural Extension Service in H.R. 6754, the agriculture appropriations bill; and on October 8, 1963, in regard to the impacted areas school aid program in the vocational education bill, H.R. 4955.

It has been a campaign of mine. Since the subject of title VI was being discussed today, I felt it only fair to the struggle that I had waged for so long—and my interest goes back for a considerable time prior to this period—to make some statement about it, even though it may not be the statement in chief which, in the course of the day, has already been made by two Senators on the other side of the aisle.

I hope that it will be understood that I make my statement in respect of that title because of the rather extended history and relationship to it which I have had, not only in connection with amendments, but in the effort over a long period of time to persuade the Government departments themselves to do something about it.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. I can attest to the fact that the Senator from New York has been zealous in this cause. During the period when I was Secretary of the Department of Health, Education, and Welfare, the communications I received from the distinguished Senator from New York exceeded the communications from all the other 99 Senators put together concerning the various problems that were involved in this very troublesome and complicated field.

Mr. JAVITS. The Senator is very kind. He illustrates why we are so pleased when a Cabinet officer comes to the Senate, because we do not have a parliamentary system under which we

have access to the ministers, as is the case in some parliamentary systems. So it is rare that we get personal witness, as the Senator has given, to what has been said. I am grateful to the Senator.

The Senator knows that the Department of Health, Education, and Welfare, over which he presided so very ably and courageously, represents the stickiest problem in the field. Mainly our problems have been there, but, very understandably—and I know that that is not the Senators' doing—the Senator was bound by his responsibilities as he saw them. He performed them most faithfully and ably. I am more than happy to pay him this tribute, notwithstanding the fact that he did not agree with me on occasion with respect to this particular question.

Mr. President, title VI, which provides assurance that Federal funds will not be used for racially discriminatory Federal-State programs, can be of the most immediate and complete assistance of any of the provisions in the bipartisan civil rights bill for achieving equal opportunity for all our citizens, without regard to race, creed, color, or national origin. Also, it has broad support, perhaps the broadest for any provision of the bill.

I hope I shall be pardoned for what is not a partisan note, but a partisan story. I remember in President Eisenhower's 1952 campaign a great meeting which he addressed, and over which I had the honor to preside, in Harlem in front of the Hotel Theresa, which is a great public meeting place in Harlem. It has been a tradition. The general was then fresh out of the Army, and not yet President of the United States. He was only a citizen without too much experience in this field. He was speaking from his heart. One thing he said that appealed to him beyond anything else in the civil rights struggle was that he could not see how we could morally, constitutionally, and ethically justify the expenditure of Federal taxpayers' money for the purpose of aiding a State program which was segregated. This was a cry from a man's heart.

This, of all the issues, was the one which had the deepest human appeal and to which he responded. And I think that response to this issue is quite widespread.

Yet it is sad to relate that the problem is current and urgent right now, shocking as that may be at this late date. There are appalling examples of the continuation of this practice. It is almost beyond belief that it is possible. Yet it is.

For example, in the Federal-State school lunch program—which is a pretty basic program—in Greenwood, Miss., according to Department of Agriculture data, 43 percent of the average daily attendance in Greenwood schools consists of Negro students; yet the Negro students receive only one-fifth of the free lunches distributed in the Greenwood district.

Under the impacted area public school aid program, according to the Department of Health, Education, and Welfare, only "suitable"—that is, racially desegregated—free public education may be assisted with Federal funds for children of Federal military and civilian personnel who reside on Federal property. But the vast bulk of Federal funds for this program are paid out under Public Laws 874 and 815 to schools attended by the much larger number of such children who do not reside on Federal property, and from these funds payments are even now being made to segregated schools. District-by-district litigation, just as in the painfully slow process of private suits under the 1954 school desegregation decision, is the only remedy for the children of Federal personnel residing off base. Four of such suits, involving school districts in Mississippi, Alabama, and Louisiana, have been dismissed on procedural grounds, without even a hearing on the merits.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. Do I correctly understand the Senator to argue that the school lunch programs in schools where white and Negro children are not side by side should be cut off because there is still segregation in the schools?

Mr. JAVITS. I should say that we have crossed that bridge, and it is a specious and spurious argument, which will no longer be accepted or tolerated, that we must perpetuate an unconstitutional, antimoral position of allowing Federal aid to segregation in our schools, because we do not want to deprive children of lunches. Let that burden be carried by those who would insist on receiving money from the Federal Government to be used in segregated schools. Let them carry the responsibility. I will not accept that argument. I think that argument has been blown out of the water. It has been made time and again. Let the people concerned consult their consciences as to their determination to keep schools segregated, notwithstanding the Constitution and the laws of the United States. They would deprive little children of school lunches; but, in my judgment, the United States cannot do anything else, in all honor and decency, but deny funds to States which refuse to desegregate their schools.

Mr. LONG of Louisiana. Let me see if I correctly understand the Senator from New York. He mentioned Greenwood, Miss. He has not mentioned Louisiana. I am interested in seeing whether he mentions the fact that the colored schoolchildren of Louisiana are not getting their share of the school lunch program, because I am sure that, to the extent of its ability to do so, the State of Louisiana is making sure that its colored children are being fed as well as its white children.

Do I correctly understand the Senator to suggest that we ought to take food away from the colored children as well as the white children by virtue of the fact that they are not side by side in school?

Mr. JAVITS. Let those who would keep the schools segregated charge that to their consciences. I do not feel that we should continue that kind of aid, paid for by taxes collected without regard to color, to school systems that persist in segregation, notwithstanding the law and the Constitution.

Mr. LONG of Louisiana. The Senator realizes, does he not, that so far as the majority of the white people in Louisiana are concerned, they feel very strongly about the segregation issue? The majority of them think it is morally wrong to integrate, and that they would be doing an evil thing if they did so. I know that the Senator disagrees emphatically with that view. I know he is diametrically opposed to that view; but that is the opinion of the majority of the white people in Louisiana.

Mr. JAVITS. In that case, let that majority put up the money to give school lunches to the segregated children. The United States should not do it. If the people feel that way, let them put up the money until the law catches up with them and compels them to desegregate—and it will ultimately. Let them put up the money to feed the children. The United States should not use the money of all the taxpayers of New York, Pennsylvania, Michigan, Maryland, and other States to feed children under the school lunch program under those conditions.

I am sure that the likely prospect is that the State would not discontinue the program and require the children to pay for their own lunches, as they did in the past, but that the State would prefer to continue to receive Federal assistance.

Mr. RIBICOFF. Mr. President, will the Senator from New York yield for a question?

Mr. JAVITS. I yield to the Senator from Connecticut.

Mr. RIBICOFF. Is it not true that the administrator's responsibility, if he felt that the cutoff of the lunch program might be detrimental to the health of Negro youngsters, would have the alternative of requesting the Attorney General to bring a lawsuit under title IV to desegregate the schools or school districts?

Mr. JAVITS. Of course.

Mr. RIBICOFF. The point that should be made is that under title VI the cutting off of funds is the last resort. There are many remedies available to an administrator under title VI. Title VI is not punitive. The purpose of title VI is to eliminate discrimination. Only after every other method to eliminate discrimination failed would the cutting off of funds be resorted to.

Mr. JAVITS. I thoroughly agree. Let those who would seek to perpetuate segregation, in the face of the clear mandate of the Constitution, look to their own consciences if this kind of situation exists.

Let me point out to my colleagues what experience shows. When we get down to cases, even the most hardened segregationist would prefer to end segregation in order to receive Federal aid than to continue segregation and lose the aid. That seems to be the general history of what occurs in this situation. We see it in the example I have given of the impacted area school aid program in regard to children of military personnel who live on Federal property and must, according to the Department of Health,

Education and Welfare, unlike children living off Federal property, be afforded "suitable"—or unsegregated—schools. Under the suitability doctrine, 15 school districts in southern areas which were segregated, with a total enrollment of 250,000 children, apparently favored Federal aid to continued segregation. So in practice the possibility of withholding aid is a good and extremely effective method.

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

Mr. JAVITS. I yield.

Mr. RIBICOFF. The Senator is now using an example of one of the instances where I as Secretary could act to end discrimination, because I had discretion to act under the statutes. After examining the impacted area statutes I felt that as Secretary I had a right to move in this field, and I issued an order that after September 1, 1963, the Government would no longer send on-base children to segregated schools and unless these schools were desegregated, the on-base children would be withdrawn from local schools and educated at desegregated schools on the base. Funds for these children would no longer be paid to segregated school districts.

As the Senator correctly pointed out, by the fall of 1963, some 15 school districts, with some 250,000 schoolchildren, voluntarily agreed to desegregate without the necessity of any court action.

Mr. JAVITS. I am very grateful to the Senator from Connecticut for the firsthand information which he has given us.

I should like to point out a few other cases in which we are still aiding segregated programs. I have discussed the impacted area school aid program.

According to the Department of Agriculture's Federal Extension Service, the title "Negro county agent" persists in six States—Arkansas, Tennessee, North Carolina, Mississippi, Alabama, and Virginia—and there are separate agricultural extension service office facilities in North Carolina, Georgia, South Carolina, Mississippi, and Alabama. Unfortunately, the list of examples could be lengthened almost indefinitely to show in greater detail where we are aiding with Federal funds programs carried on in States which continue to require segregation in such programs.

To deal with this shameful factual situation, title VI does not create any new legal or administrative powers. The spending of Federal tax revenues—collected from all taxpayers of the United States without regard to color—for segregated programs is not only morally wrong but a clear violation of the fifth amendment, as the Federal courts have recently clearly held in the case of the Hill-Burton Hospital Construction Act. In *Simkins* v. *Moses Cone Hospital*, 323 F. 2d 959, *cert. den.* — U.S. —, the U.S. Court of Appeals for the Fourth Circuit held that the fifth amendment prohibited racial discrimination by nonprofit hospitals which had received massive Federal construction grants.

As I have noted, on a number of occasions I have tried to persuade the Senate to include an antidiscrimination provision in appropriations and authorizations for the Hill-Burton Hospital Construction Act, and similarly, for various Department of Agriculture programs.

In reply to my detailed inquiries over the last year—which were placed in the CONGRESSIONAL RECORD, along with the answers received on July 2, 1963, July 10, 1963, December 5, 1963, January 30, 1964, and March 3, 1964, and that includes HEW when the Senator from Connecticut [Mr. RIBICOFF] presided over it—almost all the Federal agencies and departments have acknowledged that they already have the authority and even the obligation under the 5th amendment to withhold funds from such segregated Federal programs and activities. The major exception has been the Department of Health, Education, and Welfare, whose dissent from the general view apparently was the motivation for including a version of title VI in the original administration bill.

Mr. LONG of Louisiana. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. I believe the Senator from New York would not wish to leave the record partially correct. I believe he would wish to show that while there were some school districts that did accept colored children in white schools in order to receive Federal money, there were also a considerable number which declined, with the result that the Federal Government proceeded to provide its own schools on that basis.

Mr. JAVITS. I accept that statement by the Senator from Louisiana, which he has undoubtedly confirmed with the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. RIBICOFF. The Senator is correct. Discussion with the Senator from Louisiana revealed that there are about eight school districts which refused to take onbase children and refused the money altogether, which resulted in the Federal Government's building its own installations on Federal property.

There is one statement which the Senator from New York made which I should like to correct, with his indulgence; namely, the statement that the purpose of title VI is due to the failure or refusal of HEW to act in many instances.

The purpose of title VI is due to the fact that the Hill-Burton Act and the Morrill Act specifically provided for separate but equal facilities. They made provision for Federal funds to go to separate but equal installations; furthermore, there were many programs in the Department of Agriculture and the Department of Labor which led to exactly the same situation.

Title VI is present in the bill because of the combined work of the Senator from New York [Mr. KEATING] and myself to work out a program which we thought was fair and equitable, much of it arising out of my experience in HEW. I thought the original proposal sent up by the Attorney General was punitive and defective.

We tried to settle upon a fair and equitable program in title VI, but it is somewhat unfair for the Senator to say that it was a result of the refusal of HEW. Where we could act, we acted.

I further point out that when it came to the various teaching institutes under National Defense Education Act, language, counseling, and guidance, we refused to enter into contracts when universities on a segregated basis continued on a segregated basis. The results were most satisfactory, because the overwhelming number of colleges and universities in the South entered into contracts with HEW and eliminated segregated institutes.

But again, as to the on-base children, a small number of colleges refused to go into the program.

I believe that the entire problem should be placed in perspective. I had always felt that the Constitution made certain provisions. The courts were ahead of the executive branch. The courts were ahead of Congress. The executive branch was moving. It is true it was moving slowly, but it was moving and trying to eliminate as much as possible the elements of segregation. But I had, of course, felt that one of the basic duties we had was to combat the refusal of Congress to move in this field. Finally, in the bill now before Congress, Congress is living up to its full obligations, indicating that it has caught up with the Constitution and with the courts.

I believe we are in a position to have Congress assume its rightful responsibility instead of "sloughing off" its responsibility.

Mr. JAVITS. In response to the Senator, let me say:

First, it is not a fact that in every program which the HEW said it did not have the authority to cut off funds, there was a "separate but equal" clause. Such a clause appears in the Morrill Land Grant College Act and in the Hill-Burton Hospital Construction Act, but it does not appear, for example, in the impacted school areas acts. Yet there, the Department claimed that the language was so mandatory on the Department that it had to give aid, that it could not refrain from giving it, that it had no discretion in the matter, despite our claim that the Constitution prohibited giving such aid.

In my judgment, the Senator was proceeding on the advice of counsel. The Senator himself is an able lawyer. But he was not his own lawyer—as is quite proper—when he was Secretary of HEW. He was proceeding under advice of counsel. Counsel appeared not long ago before the Committee on Labor and Public Welfare, of which I am a member. I took great issue with counsel, and therefore with the Senator when he was Secretary of HEW; and also with the present Secretary, Mr. Celebrezze. It was my belief—and I argued the matter on the floor of the Senate as well as outside the Chamber—that the separate-but-equal provi-

sions of the Hill-Burton Act and the Morrill Land Grant College Act are unconstitutional and that therefore the Secretary had to act on that basis; also that the interpretation of the law under which he felt required him to give this aid to segregated programs even in the absence of the "separate but equal" provision was contrary to the Constitution, and therefore should not be his interpretation of the law.

In the final analysis, inasmuch as he had advice from counsel in the Department—and I know that to be a fact, because counsel testified to it—it may properly be said that the initiative should have come from the President. What I was really arguing was that the President, by Executive order, could have resolved all the legal doubts. The courts have since sustained me, in the Simkins against Moses Cone Hospital case, which clearly holds that, notwithstanding the "separate but equal" provisions in the Hill-Burton Act, segregation in aided facilities will be struck down as unconstitutional.

I am not finding any fault with the Senator when he was Secretary in the Department of Health, Education, and Welfare. Really, it was a matter of the President settling the difference, and my contention was that that should have been done because, notwithstanding the words of the various statutes, the constitutional mandate was supreme.

Mr. RIBICOFF. I believe it is only fair to point out that general counsel of the Department had written a memorandum, as the Senator has indicated, stating that the Secretary did not have the right to cut off these funds when there was a clear mandate from the Congress itself.

In the impacted area program, where we could take action concerning on-base children, I acted to end discrimination.

However, the general counsel pointed out that with other portions of the impacted area program, in which Congress had said that I must pay to each district under a formula of so much per child, all I, as Secretary, could do under those circumstances was to approve the allotment and make the payment under the formula set by Congress.

It is also fair to say that when I came to the office of Secretary of Health, Education, and Welfare, these laws, under which I acted, had been in effect for some time, and Secretaries of the previous administration, which was under the jurisdiction of the party of the distinguished Senator from New York, had not taken any of the action I took to end discrimination.

There was more action taken in this Department while I was Secretary, in the field of civil rights, than had ever been taken in it in the Government prior to that time.

I believe we must keep these things in perspective.

In the final analysis, the Secretary is in a ministerial position, and carries out the orders of the President and of Congress. In the absence of congressional authority, and in the absence of a mandate from the Chief Executive, the Secretary acts in a ministerial capacity in carrying out the orders of Congress and of the President of the United States.

Mr. JAVITS. I do not believe it is necessary to defend the Eisenhower administration generally. For example, the desegregation of the District of Columbia was monumental in terms of a civil rights record. I am not taking the Senator from Connecticut to task for the way he discharged his responsibility as Secretary of Health, Education, and Welfare.

I have stated that he was acting at that time under what I knew to be the advice of the legal authority of the Department. I only point out, as I have pointed out many times, that other departments, similarly advised, such as the Department of Defense for example, did not take the same view. We used that fact as indicating the way the matter should be handled by all the departments.

It was a legal argument, and I believe the courts have come out on the side that I took and that others associated with me took.

The Senator from Michigan [Mr. HART] was just as indefatigable—if I may refer to myself in those terms—as I was, and we acted together in connection with pressing every governmental department on this issue.

We are now dealing with the present and the future. I do not wish the Senator to have any feeling that I am trying to plow up that ground. It is important because, for example, in the schools the problem is continuing. That is the point I make. I refer to the impacted school program for personnel living off the base.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. I believe it would be well if the Senator would analyze the cases he has to support his statement that so-called hard-shelled segregationist areas integrated schools in order to obtain Federal money. I have not examined the cases to which the Senator has referred. I do not dispute the figure of 15. I can speak only from my own recollections of the facts regarding my own State. The impression I have is that insofar as the areas which have integrated their schools in order to obtain some Federal money are concerned, I believe those were the more moderate areas, and not areas where people felt more strongly about this issue.

In addition to the number of areas that did not integrate in order to obtain aid money, I believe it would be well to point out that a great many areas that were eligible for aid did not ask for it.

Certain parishes in Louisiana which were eligible for large amounts of Federal aid money under the impacted school program did not ask for the aid because they believed they would be confronted with this type of demand sooner or later, and therefore did not ask for money initially.

Mr. JAVITS. I thank the Senator from Louisiana for his intercession. I shall obtain the facts and list the school districts for the Senator.

I point out that, far from imposing some new principle or granting any new administrative power, title VI would strengthen the existing constitutional mandate which had already been enforced by President Truman in desegregating the Armed Forces, by President Eisenhower in desegregating schools in the District of Columbia, and by President Kennedy in the housing desegregation order of 1962. Title VI provides a uniform means of enforcement for the principle common to these executive orders, as well as to the many other executive actions which have been and are being taken, even in the absence of further legislation.

Moreover, the enforcement procedures in title VI are hedged in with more safeguards than any other title of the bill, and can hardly be considered punitive in any sense. Any agency rule, regulation, or order effectuating the principle of nondiscrimination is specifically made subject to presidential approval.

The Senator from Connecticut [Mr. RIBICOFF] has properly pointed out that the title is to be invoked only as a last resort.

Before aid could be terminated, or refused in any given case, notice and an opportunity for a hearing would have to be provided. That is not required under the law now or under the Constitution when Federal funds are being distributed. The title also provides that even when the decision is made to terminate or refuse aid, which must be on a case-by-case basis, there must be a stay of 30 days, within which the appropriate House and Senate committees must be apprised in writing by the agency head of the circumstances and grounds for such action. Finally, there is judicial review. The safeguards are excellent.

Proponents of the bill have continually made it clear that, apart from all these safeguards against arbitrary action, it is the intent of title VI not to require wholesale cutoffs of Federal funds from all Federal programs in entire States, but instead to require a careful case-by-case application of the principle of nondiscrimination to those particular activities which are actually discriminatory or segregated.

One would expect the opponents of the bill to prefer enactment of title VI, with all these restrictions on the enforceability of administrators' already-existing constitutional powers, to continued enforcement through executive orders or administrative rulings, in which the Congress has no opportunity to mandate procedural safeguards.

The great effectiveness of this provision of the bill, even in the limited, last-resort form in which it is now proposed, is expected to flow from two major factors. First, great amounts of funds—far greater than their contributions to the Federal Treasury in taxes—are contributed by the Federal Government to Southern States.

In order to show how clear that is, I ask unanimous consent to include in the RECORD an analysis made by the Tax Foundation, dated 1964.

Mr. LONG of Louisiana. Reserving the right to object—and I shall not object—I should like to ask the Senator, with respect to the proposed insertion, how many States he lists which pay less money into the Federal Treasury than they receive in Federal aid.

Mr. JAVITS. Most States do; that is, a preponderance of the States do.

However, I point out that some of the lowest percentages occur among the Southern States, which receive the greatest amounts of aid. In other words, many Southern States are not only low on the amount they pay in, but they also receive large amounts of dollar aid on a population ratio.

No one begrudges this aid. The Senator from Louisiana has seen me vote for Federal aid to education, when I was taken to task for it very strongly, on the ground that New York State taxpayers would be paying X times what New York State received. The Senator from Kentucky [Mr. COOPER] and I have joined in a formula, which would even have reduced that amount, because I believe in Senator Taft's concept of Federal aid to education; namely, that we want education to be optimum for our children and that it should not be a matter simply of putting a dollar in and getting a dollar back.

I do not begrudge the money being paid to those areas, and I will continue to vote for it. However, we are spending huge amounts of money in areas for purposes upon which the Constitution frowns. We are trying to readjust that very inequitable situation.

Mr. LONG of Louisiana. The reason I asked that question is that at one time Louisiana could have been regarded as a State that was getting more money back than it was paying in taxes.

My impression is that with the great defense expenditures since the Korean war started, to which all States were required to contribute their part, very few States—the State of Mississippi might have been about the only one—could be said to be getting more money back in aid than the State was actually paying in taxes to the Federal Government. Apparently the Senator is analyzing that situation on a somewhat different basis than does the junior Senator from Louisiana.

Mr. JAVITS. I am not analyzing it at all. The figures were provided by the Tax Foundation. I will place the table in the RECORD. When the Senator examines it, he may have some comments on it. I shall be interested to hear them.

I have referred to the first reason for the effectiveness of this provision of the bill, even in its limited, last-resort form. The second is that it is apparent from the history of desegregation efforts throughout the country, that when faced with the alternatives of desegregation or the loss of heavy Federal financial assistance—such as so-called impacted area school assistance and the airport terminal construction program, for example—even hardened segregationists tend to prefer desegregation. For example, where the Department of Health, Education, and Welfare applied the "suitability" doctrine to segregated schools attended by children of Federal personnel residing on base, 15 school districts with total enrollments of approximately 250,000 children indicated that they would prefer Federal aid to continued segregation. The constitutional principle often happens to be reinforced in this instance by a priority apparently built into human nature.

Finally, Negroes no longer want continued segregation as the price of Federal aid. It is no longer tenable to argue that we must continue to support segregated schools or Negroes will not obtain any education at all.

It is apparent to all that the painfully slow process of individual suits to desegregate public schools or to desegregate any other public facility in the South is hardly a satisfactory alternative to the cutoff of funds. The Federal Government holds the key to eliminating discriminatory practices in advance, through its financial support of the facilities involved. It should use that key and the Congress, through enactment of title VI, should endorse it.

Mr. LONG of Louisiana. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. LONG of Louisiana. I have examined the table which the Senator made available. I have calculated the Federal aid on the same basis to which the Senator has referred, that is, assessing each State's share of the Federal aid tax grant and the share of the taxes each State paid to support the Federal aid program. One could ask whether a State was getting more than its share of the dollar volume of that aid.

I believe I have analyzed the table from the Senator's point of view, as well. However, if we undertake, first, to determine how much the people of a State are paying the Federal Government in taxes, and then proceed to see how much the Federal Government is paying back in dollars under the Federal aid program, we find that perhaps all States pay much more to the Government in Washington than they receive in aid from Washington.

The Senator has presented a table that undertakes to compute the percentage of tax that each State pays for the overall support of Government, and then allocates that percentage against the share of money that a State receives for a particular program.

That ratio would make a State show less payment than if we added to that calculation the share which each State contributes to the national defense effort.

Mr. JAVITS. I am not trying to deal with intangibles. I said a moment ago that the life of any southern boy serving in the Armed Forces is just as dear to me as the life of any resident of my State. Notwithstanding our deep feelings about the civil rights bill, all Americans are dear human beings. So I am trying to deal only with tangibles. I have taken the best analysis that I could obtain from a completely impartial source.

All I can say to the Senator is that it speaks for itself within its definition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

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

[From Tax Foundation, Inc., Allocating the Federal Tax Burden by States: Research Aid No. 3 (revised), 1964]

TABLE 7.—*Total Federal grants to State and local governments and estimated burden of Federal grants, including highway trust fund grants, but excluding shared revenues, fiscal year 1962*

State	Federal grants-in-aid (millions) [1]		Amount paid for every dollar of aid received
	Payments to States	Estimated burden [2]	
Total	$7,638.9	$7,638.9	
Alabama	193.2	96.6	$0.50
Alaska	44.5	8.3	.19
Arizona	83.6	58.0	.69
Arkansas	109.6	53.0	.48
California	724.4	824.1	1.14
Colorado	105.0	82.6	.79
Connecticut	88.2	144.6	1.64
Delaware	15.6	33.0	2.12
Florida	158.4	205.8	1.30
Georgia	194.1	129.2	.67
Hawaii	40.1	24.6	.61
Idaho	48.0	26.3	.55
Illinois	359.5	483.5	1.34
Indiana	134.5	194.2	1.44
Iowa	102.8	106.6	1.04
Kansas	93.6	88.0	.94
Kentucky	159.6	92.5	.58
Louisiana	226.8	100.8	.44
Maine	41.6	35.7	.86
Maryland	113.9	139.6	1.23
Massachusetts	200.0	240.7	1.20
Michigan	275.7	331.9	1.20
Minnesota	141.4	137.3	.97
Mississippi	119.7	54.8	.46
Missouri	223.6	187.6	.84
Montana	53.6	27.3	.51
Nebraska	61.1	59.8	.98
Nevada	27.9	19.4	.70
New Hampshire	32.2	26.2	.81
New Jersey	169.7	305.1	1.80
New Mexico	63.6	38.2	.60
New York	548.3	832.8	1.52
North Carolina	166.2	142.4	.86
North Dakota	38.1	19.0	.50
Ohio	367.0	420.9	1.15
Oklahoma	177.0	90.7	.51
Oregon	97.4	78.4	.80
Pennsylvania	359.3	469.3	1.31
Rhode Island	35.1	36.0	1.03
South Carolina	89.3	64.8	.73
South Dakota	59.2	23.3	.39
Tennessee	174.0	111.9	.64
Texas	383.6	396.0	1.03
Utah	54.0	35.1	.65
Vermont	40.9	14.5	.35
Virginia	158.9	148.5	.93
Washington	144.0	123.2	.86
West Virginia	100.3	56.4	.56
Wisconsin	126.5	159.9	1.26
Wyoming	37.4	17.0	.45
District of Columbia	76.8	43.4	.57

[1] Excludes shared revenues; includes highway aids.

[2] The tax burden for aid payments is assumed to be equal to aid payments. The burden of aid payments financed through the budget is distributed by State on the basis of an estimated distribution of the burden of general taxes; the burden of highway payments is distributed by State on the basis of a Bureau of Public Roads estimate of the State distribution of taxes going to the highway trust fund.

Source: Treasury Department and Tax Foundation, Inc.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

[No. 122 Leg.]

Aiken	Church	Hruska
Allott	Clark	Humphrey
Anderson	Cooper	Inouye
Bartlett	Cotton	Jackson
Bayh	Curtis	Javits
Beall	Dirksen	Jordan, N.C.
Bible	Douglas	Jordan, Idaho
Boggs	Gore	Keating
Brewster	Gruening	Kennedy
Cannon	Hart	Kuchel
Case	Holland	Long, Mo.

Long, La.	Moss	Ribicoff
Magnuson	Mundt	Scott
Mansfield	Muskie	Smith
McGovern	Nelson	Stennis
McIntyre	Neuberger	Symington
McNamara	Pastore	Williams, N.J.
Metcalf	Pell	Williams, Del.
Miller	Prouty	Yarborough
Monroney	Proxmire	Young, Ohio

The ACTING PRESIDENT pro tempore. A quorum is present.

Mr. JORDAN of North Carolina. Mr. President, I intend to discuss the problems involved in the question of voting rights as they would be affected under title I of the House bill 7152.

During my comments I shall not make any attempt to discuss the technical legal questions involved. I am not a lawyer and I am not, therefore, qualified to enter into any technical discussion about the legal or constitutional aspects of title I. This phase of the discussion is being handled very effectively by other members of the Senate who are outstanding lawyers and legal scholars.

I would like to make my observations as a person who has worked and lived with people of all walks of life in North Carolina since my birth.

In many ways the people of North Carolina are no different from the people of other States. We work hard, we try to provide good homes for our families, and we try to improve our own lot in this world as we go along.

We have our problems, of course, just as people everywhere have problems, but I think any fair-minded person will agree that we in the South have had problems over the generations which have been unique and which have been most difficult.

I do not come before the Senate today with the old argument that "we need more time." It is not a question of "needing" more time, but rather it is a question of time being essential in any solutions we reach.

Regardless of what laws the Congress enacts, and regardless of what form they take, the racial problems of this Nation must be solved by people—and when I say people, I mean neighbors and friends—working together.

We can pass any law we want to pass, we can send out marshals and Federal troops to enforce them, we can virtually put every citizen in this Nation in the Army, but we cannot solve the racial problems we have until the people themselves are ready to work together side by side.

These are the things I want to emphasize today.

I want to talk about the human problems we have. I want to talk about the problems we have with people working and living together.

These are problems that cut through race, color, national origin, and creed.

It is my contention that the bill we are now considering will bring about far more discord among the people of this Nation than harmony. It is my contention that if we enact this bill into law, we will be creating more problems than we will be solving.

There is no doubt in my mind that the people of the United States are more concerned about the racial problems we have today than at any time in our history.

There is genuine concern among the people everywhere. This concern is not confined to any one State, area, or region.

But in the nature of things, I am sure there is more concern in the South than in other parts of the country, generally speaking.

I am sure this is true because more attention has been brought to our part of the country by the newspapers and other communications media.

We have had—and still have today—some very critical problems in the South. We know this; and we also know that real progress is being made in solving them.

We feel, therefore, that the bill which is now pending is aimed in our direction. It is aimed at us, we feel, as a punitive measure, and we sincerely feel that if it is enacted into law, it will slow down our progress rather than speed it up.

I think the question of voting offers a good illustration of what I am talking about.

There is no doubt that we have problems involving all citizens being able to exercise their right to vote. There is no question about this, but neither is there any question about the fact that we are making very rapid progress under very difficult circumstances.

The thing that bothers me most about all of the so-called civil rights problems is the apparent belief among many people that we can wave a magic wand, or pass a law, and all of our problems will be solved.

Such a belief, of course, is not realistic, but I do think that the Senate of the United States owes it to itself and to the people of this Nation to take into account all of the factors before such a far-reaching bill is acted upon.

Under the provisions of H.R. 7152, we would be embarking upon an entirely new dimension in our Federal Government.

Under this bill, the Federal Government would not only tell the States of this Nation what the voting qualifications would be, but also the Federal Government would, in effect, administer and preside over the election laws of each of the 50 States.

If the Congress is ready to enact such a bill, then we had might as well forget about the States having any jurisdiction over their election laws.

I believe it would be a serious mistake for the Federal Government to take such action.

Even more important than this, we would be in effect drawing hard lines and daring people to cross them. We would be telling an elections registrar and a county board of elections how to administer a literacy test, for example, and we would be inviting that same registrar and that same board of elections to devise new means of exercising discriminations if in fact that is what they wish to do in the first place.

Somehow we must understand that to solve the problems we have we must get at the hearts and minds of the individuals involved and then, and only then, are we going to remove unfair discrimination from human behavior.

To me, there are two approaches which must be used in getting more of our qualified citizens to register and to vote:

First. We must first raise the educational level of those who are not now participating in elections, and

Second. We must convince all of those who participate that each right is accompanied by a responsibility.

During the course of my comments, I wish to review some of the history of suffrage in North Carolina and, also, I wish to review some of the history of our system of education.

I believe it is impossible to separate the two, because I am certain that in order to have citizens who are active in government—and certainly voting is taking an active part in the process of government—we must have enlightened citizens.

The question of suffrage in the United States is as old as our country itself.

I believe it would be well to read into the RECORD at this point a brief excerpt from a book entitled, "Introduction to American Government," ninth edition, written by Profs. Frederic A. Ogg and P. Orman Ray, two of the Nation's outstanding scholars in the field of government.

Professors Ogg and Ray make this observation about suffrage:

> Basis and nature of the suffrage: By the electorate, we mean, of course, those of the people who are entitled to vote. The matter, however, is less simple than it sounds, because under our Federal system every one of the 48 States is left largely free to adopt its own suffrage regulations—

This observation was written by these two professors before they had the three-fifths law in each State—

> including whatever age, residence, taxpaying, literacy, or other qualifications it may care to prescribe; in other words, every State, through provisions written into its constitution, creates its own particular electorate. To be sure, this freedom is not quite absolute; for the 15th and 19th amendments to the Federal Constitution forbid a State (or the United States) to deny or abridge the right of citizens of the United States to vote on account of (a) race, color, or previous condition of servitude, or (b) sex. But to this extent only is the suffrage regulated on a uniform, nationwide basis. The Federal Constitution confers the privilege of voting on no one; it merely stipulates certain grounds on which people otherwise qualified shall not be denied the privilege—with the result that the electorate for national purposes becomes simply the aggregate, or sum total, of the more or less differing electorates maintained in the individual States. Any one who can vote for a member of the most numerous branch (i.e., the lower house) of his State legislature can vote also for the only members of the National Government who obtain their positions by popular election; namely, Representatives, Senators, and (in effect) the President and Vice President, and also commonly (by State regulation) for officers of his county, city, town, or village as well.
>
> Notwithstanding that the constitutional amendments cited refer to the "right" to vote, the suffrage is to be regarded as not properly a right but rather a privilege. It is, no doubt, a right—a legal right—for those who have been endowed with it, so long as they do not disqualify themselves by,

for example, committing a crime or going insane. But there is no inherent right to be so endowed. To be sure, people urging an extension of the suffrage in one direction or another have always been prone to picture voting as a natural, if not also a constitutional, right. The argument was heard repeatedly during the long campaign for the enfranchisement of women. A sober view of the matter, however, suggests that, in the last analysis, who may vote and who may not is properly to be determined by consideration of general policy and expediency, and not on the theory that any particular class or classes of the people have an inherent right to be included. Even citizenship, as our courts have declared repeatedly, carries with it no such right. To be sure, no State now allows noncitizens to vote. But children are citizens; and no one proposes that they be made voters.

I should like now to turn to the question of sufferage in North Carolina.

In this respect, our State has held a rather interesting history.

Under North Carolina's first State constitution adopted at Halifax in 1776, free Negroes had the right to vote.

There was no question or suggestion of any racial restriction in that constitution.

However, there were other restrictions, or discriminations, if that is a more popular term. The constitution of 1776 provided that only those people who were owners of 50 acres of land or more could vote for State senators, and only taxpayers could vote for members of the house of commons.

The constitution further provided that no one who denied the truth of the Protestant religion could hold any public office within the State.

Prior to the Revolutionary War, and prior to the constitution of 1776, no citizen in North Carolina could vote for Members of Parliament.

Furthermore, neither Indians nor Negroes—whether they were free or slaves—could vote at all.

Our State constitution of 1776 granted voting rights to all resident freemen, white or colored, and further provided that every foreigner who came to settle in the State could, after a year of residency, and after taking an oath of allegiance, be deemed a free citizen of the State.

In 1835, 60 years after our State's first constitution was adopted, a constitutional convention was held and this convention adopted a resolution depriving the free Negro of suffrage. This did not mean by any means that all of our people of North Carolina were in favor of depriving the Negro of the right to vote merely because of his color. In fact, the resolution was adopted by only a 3-vote margin, 65 to 62.

Thirty years later, in April of 1865, the Civil War ended. Two years later, in 1867, Congress passed the Reconstruction Act requiring each Southern State before readmission to the Union to draw up a new constitution providing for Negro suffrage and also requiring the ratification of the 14th amendment.

A new North Carolina constitution was adopted in 1868, providing for universal manhood suffrage. It also provided for the popular election of State and county officials and the elimination of all property and religious qualifications for voting and holding office. In this constitution women were not given the right to vote. The new constitution was adopted later in the same year—1868. At that time a total of 196,872 were registered. Of this total 117,428 were white and 70,444 were Negroes.

The new constitution was adopted by a vote of 93,084 to 74,015, which showed that a large number of whites voted for it.

I call attention to these facts and figures to show that the so-called prejudice against our Negro citizens has never been so strong and bitter as it sometimes has been pictured to be.

I do not have to review what took place in our political and social life during the next few years because what our people went through during the reconstruction period is well known to everyone. In their book, "North Carolina," Profs. Hugh Lefler and Albert Ray Newsome have a long account of the Reconstruction period. I think one of the best descriptions of the situation which existed in this period is given in this book.

Professors Lefler and Newsome put it this way:

It produced lasting racial and sectional hatreds; complicated the Negro problem; compelled an abnormal, illogical, and harmful political unity of the whites; made racial and sectional prejudice the basis of political alinement; encouraged lawlessness, political manipulation, and corruption; and diverted political attention from realistic social and economic issues.

To say the least, it has not been an easy task to overcome the effects of the Civil War and the Reconstruction period which followed.

For generations the social, economic, and political life of our State remained in turmoil and even today we still run across deep feelings and problems which have their roots in that period of our history.

In its report on "The Equal Protection of the Laws in North Carolina," the North Carolina Advisory Committee on Civil Rights made this observation about the period to which I am referring:

Thereupon, the legislature of 1899 proposed and submitted to the voters in the election of 1900 an amendment to the Constitution to prevent any person from registering unless he could read and write a section of the North Carolina constitution to the satisfaction of the registrar. This was openly designed to eliminate the Negro voters, most of whom were illiterate. The white illiterates were accommodated by a grandfather clause which permitted them to register and vote even though they could not read or write, provided they could trace their ancestry to someone who voted prior to January 1, 1867. Since Negroes had been forbidden to vote between 1835 and 1868, it was unlikely that many Negroes would qualify under the grandfather clause. That this clause was an hereditary privilege forbidden by the State constitution since 1776 seems not to have been raised in any suit.

In 1915 the U.S. Supreme Court declared such clauses as our "grandfather clause" as being unconstitutional.

This left, of course, the literacy test still in effect, and it has remained in effect until this day.

In the same report from which I have just quoted, there is an account of an extensive study the Advisory Committee on Civil Rights made of voting in North Carolina.

This study of our voting machinery and operation was carried on over a period of several years and it showed some rather interesting things.

I think it would be well for me at this time to quote from a section of the committee's report issued on June 4, 1961. The quotation from the report is as follows:

In addition to the new data collected by the committee from the county boards of elections, the committee continued to hold hearings in the principal cities and towns in North Carolina, at which time opportunity was given for persons to file complaints of the denial of the right to register or to vote if, in their opinion, the denial was based on their race, religion, or national origin. Such hearings were held in New Bern, Greenville, Rocky Mount, Fayetteville, Raleigh, Durham, Greensboro, Winston-Salem, Charlotte, and Asheville. Also, the 10 members of the committee live in various places across the State and each of them has been available for the purpose of receiving written complaints under oath as to the denial of the right to register or to vote.

To date the committee has received sworn written complaints from 5 of the 100 counties in the State. These counties are: Franklin, Bertie, Greene, Northampton, and Halifax. The complaints from Northampton and Halifax were received in 1959, together with a complaint from a citizen and resident of Greene County. The complaints from Franklin and Bertie, together with additional complaints from Greene County, were all received in May 1960, at the time of the registration for the 1960 primary.

All of these complaints were from Negroes. The substance of their complaint was that, although qualified under the laws of North Carolina to register, they were denied registration on account of their race. It was alleged that the reading and writing tests were applied to the complainants in a manner different from the way such tests were applied to white applicants, so as to discriminate against the complainants and deny them the privilege of registering and voting solely because of their race.

In the more than 2 years since this committee has been in existence, there have been no such complaints from any of the other 95 counties in the State.

In accordance with the 1957 act of Congress, the sworn voting complaints which were received from the five counties mentioned above were referred to the U.S. Commission on Civil Rights for appropriate investigation. In some instances the complainants had also filed notices of appeal to the county boards of elections. One of the complainants carried her case to the Supreme Court of North Carolina. In an opinion handed down on April 12, 1961, the North Carolina Supreme Court held that she should be given another opportunity to register and that it was unreasonable and beyond the intent of the North Carolina law for her to be required to write a section of the Constitution as it was read to her (*Bazemore* v. *Bertie County Board of Elections,* 254 N.C. 398 (1961)).

I think these excerpts from the committee report are both interesting and revealing.

I think that any fairminded person would say that on the basis of the study made by the committee that the few incidents of discrimination that have been shown in our State have been isolated

incidents and certainly do not, by any means, show a general pattern.

In fact, at another point in its report the committee had this to say:

We believe that in respect to voting, the people of North Carolina are in agreement that no citizen of our State shall be denied the right to register, vote, and have that vote counted, on account of his race, religion, or national origin.

Where registrars have arbitrarily imposed more difficult literacy tests on Negro applicants than on white, or wherever there has been discrimination against Negroes in respect to their right to register and to vote, such denial of a basic right of citizenship does not have the approval, either open or tacit, of the vast majority of the officials and citizens of our State. We believe that where such discrimination has been practiced, it has already disappeared, or will soon disappear.

All of this means that certainly we know that there are imperfections in the way our voting machinery and our voting system in North Carolina has been operating, but I think it is only natural that we should expect such imperfections as long as we have human beings administering laws that are made by men.

I am proud of the record we have made. I think it is a good one and I do not think any other State can stand up and say we are bad and they are good in terms of our efforts and in terms of the progress we have made toward bringing in all people as a part of our governmental process.

Certainly, we are aware of the fact that we have a disproportionately low number of Negroes registered in North Carolina.

We know that the Negroes have not exercised their right to register and vote as much as the white people of our State have done.

But in all sincerity, I say that the mere enactment of H.R. 7152 will not cure the situation.

It is my strong conviction that the real roots of the problem lie in education.

Regardless of a man's color, national origin, or creed, he must become an enlightened citizen and a responsible citizen before he exercises his right to register and to vote.

This is a fact that all of the laws in the world will not change.

This is something that must be decided in the individual's own mind, and it is my belief that the essential ingredient is the education of the individual.

I personally think that in order to understand why we have no more voter participation than we do in North Carolina, we need to understand the educational background of our citizens.

The two are tied together and there is no logical way to separate them.

I would, therefore, like to turn to the progress we have made in education in our State.

Throughout our history, the people of North Carolina have had a deep devotion to the values of education.

We have always felt that education is the key to our future.

But again we have been hampered and held back by conditions of the times.

We have had, in a manner of speaking, to make brick without straw, but over the long haul I think a fair evaluation of our efforts will show that we have done a truly amazing job.

Prior to the Civil War, considerable progress was made in North Carolina in the field of public education. From the most meager beginnings great strides were made between the Revolutionary War and the Civil War, but the Civil War had a tremendous and far-reaching effect on our efforts in North Carolina to achieve an effective system of education.

One of our finest institutions of higher learning, Wake Forest College, closed in 1862, and from the middle of 1864 to the close of the war, the main college building was used by the Confederate Army as a hospital. Trinity, which later became Duke University, managed to remain open until 1865, but in that year it also closed. In the same year Davidson College was forced to close. There were many other schools and academies operating at the beginning of the war but they were forced to close because of a shortage of teachers and students. The University of North Carolina managed to remain open during the war, but it was not much more than just open.

Of course, elementary and secondary schools suffered greatly, and in looking back over our history, I think most people will agree that all of our educational institutions in North Carolina suffered more during the Reconstruction period than they did during the Civil War itself.

Again, I want to quote from the book, "North Carolina," by Professors Lefler and Newsome.

Of this period, they say in part:

Collapse of the State system of common schools: The utter collapse of the State system of common schools early in Reconstruction resulted from the general demoralization of the times and the loss of most of the literary fund, the main support of the system. The loss of this fund resulted from the sale of its railroad and bank stock at depreciated prices and from the defeat of the Confederacy and the repudiation of the State war debt, which rendered worthless its North Carolina and Confederate securities. During their brief tenure of power from 1865 to 1868, the Conservatives abolished the office of State superintendent of common schools, refused to make State appropriations for schools, and threw the responsibility for public education upon localities. Towns and counties were empowered to levy taxes for schools, but this failed to solve the problem, since few of the local governments took favorable action. The lack of State aid and the prevalence of poverty, educational apathy, and indifference, and popular aversion to taxation forestalled any appreciable achievement in public education.

The Republican Party and public education: The State government under radical Republican control from 1868 to 1870 manifested a striking interest in public education. Devoting an entire article to education, the constitution of 1868 provided for an elective superintendent of public instruction and required the general assembly at its first session to provide, by taxation and otherwise, a general and uniform system of free public schools for all children between the ages of 6 and 21. County commissioners were to be subject to indictment if they failed to maintain one or more schools in each district at least 4 months each year. The powers of making rules for the school system and of managing the educational fund were vested in the board of education. The constitution further provided that the remains of the literary fund, the proceeds from the sale of swamp lands and estrays and from fines and penalties, appropriations which the general assembly might make, and at least three-fourths of the proceeds of State and county poll taxes should be used for public schools.

The public school law of 1869: In response to Governor Holden's recommendation, the legislature passed the school law of 1869 providing for separate schools for whites and Negroes, a system of administration similar to that of the ante bellum period, a 4 months' term for all children, and the levy by the county commissioners of a sufficient township tax to provide the 4 months' school if the township failed to make provision therefor. The general assembly also appropriated $100,000 for the public schools. This school law, a very intelligent and liberal one for its day, might have established an excellent school system had the act been rigidly enforced and the revenues been ample. But the effective school system envisioned by the authors of the 1869 school law was in the hands of superintendent of public instruction, the Reverend S. S. Ashley, a carpetbagger from Massachusetts, and an advocate of mixed schools, and his assistant, J. W. Hood, a Negro carpetbagger, created suspicion and lack of public confidence; the State's resources were limited; schoolhouses were few, and in bad repair; none of the State's appropriation for schools was immediately available; and in 1870 the radicals gave the schools only $38,000 of the $136,000 collected for that purpose; the collection of poll taxes was incomplete; and many townships failed to provide schools in accordance with the law. Meager records indicate that in 1870 there were 1,398 schools operating in 74 counties, at a cost of $43,000, and with an enrollment of 49,999, nearly half of whom were Negroes, though in separate schools from the whites. The total enrollment was only one-fifth to one-seventh of the children of school age. The progress of education in North Carolina was slow during Reconstruction—and it remained slow in the generation of Democratic political supremacy after Reconstruction.

Higher education and its problems: The reopened university, struggling with poverty, small enrollment, and educational lethargy, began to receive small regular State appropriations for maintenance with a $10,000 grant in 1881; but its State support and its very existence as a university were threatened by the rivalry and opposition of some religious denominations, particularly the Baptists and Methodists. The university fumbled its opportunity to meet the growing need for agricultural and industrial education as it had earlier failed to meet the demand for teacher training.

As early as 1866, Daniel Harvey Hill made an appeal for technical education, declaring: "The old plan of education in the palmy days of the South gave us orators and statesmen, but did nothing to enrich us, nothing to promote material greatness. The South must abandon the esthetic and ornamental for the practical and useful. Is not a practical acquaintance with the ax, the plane, the saw, the anvil, the loom, the plow and the mattock, vastly more useful to an impoverished people than familiarity with the laws of nations and the science of government? The everlasting twaddle about politics is giving place to important facts in history, in the mechanic arts, in morals, in philosophy, etc."

The movement for a college of agriculture and mechanic arts: Soon after the readmission of North Carolina to the Union in 1868, North Carolina availed itself of the advantages of the Federal Morrill Act, better known as the Land Grant College Act; and the land script for 270,000 acres of public land, which sold for $125,000 was transferred to the

University of North Carolina. Although no separate agricultural and mechanical college was established, the university received annually for many years $7,500 (the interest on the original $125,000) for the purpose of giving agricultural and mechanical education. The university offered courses in this type of education, but few or no students enrolled in them. In the early eighties many complaints were made about this situation and there were increasing demands for a separate agricultural and mechanical college—though in many States the land-grant college was attached to the State university. The demands for trained men in industry, voiced by Walter Hines Page and the Watauga Club of Raleigh, and the crusade for agricultural education carried on by Col. L. L. Polk, editor of the Progressive Farmer, finally led to the chartering of the State Agricultural and Mechanical College in 1887. It opened 2 years later.

The State establishes other colleges: To satisfy the broadening needs of higher education, the State legislature chartered and established four other new colleges at this period: the Fayetteville Colored Normal in 1877, the first Negro teacher-training school in the South; the State Normal & Industrial School for white girls at Greensboro in 1891, sponsored chiefly by Charles D. McIver, the Teachers' Assembly, and the Farmers' Alliance; the North Carolina Agricultural & Mechanical College for the Colored Race at Greensboro in 1891; and the Elizabeth City Colored Normal in the same year. The main impetus for these significant achievements in higher education came from outside the ranks of political leaders.

Trinity College moved to Durham: The most significant fact in the realm of the small, struggling, denominational colleges was the removal of Trinity College from Randolph County to Durham in 1892, after Julian S. Carr donated the site and Washington Duke donated $85,000.

The plight of the public schools: The chief dependence for secondary education prior to 1900 was upon the academies which slowly revived and grew, though they were fewer in number than in the ante bellum period. The establishment of a few city graded public schools—with Greensboro and Charlotte taking the lead about 1870—was a significant beginning which would have far-reaching results. But the progress of the public schools was particularly disappointing under the conservative leadership which controlled the Democratic Party and the State government for a quarter of a century after 1870. The plain mandatory provisions of the constitution that the general assembly and the county commissioners provide public schools for 4 months each year for all children were violated.

The first Democratic legislature of the period (1871) drastically cut the salary of the State superintendent and deprived him of all clerical service and travel funds. This led to Ashley's resignation and his replacement by Alexander McIver. A so-called State tax of 6⅔ cents on each $100 valuation of property and 20 cents on each poll was levied for the public schools; but the proceeds in each county were to be used by that county. If revenue was insufficient to maintain the constitutional 4 months' term, the county commissioners were prohibited from levying a special tax to supply the deficiency. In 1873 the tax rate was increased; but, if it was insufficient to provide the 4 months' term in any county, the county commissioners were not empowered to levy a special tax until after a favorable popular referendum. In 1875 the constitution was amended to provide definitely for separate schools for whites and Negroes.

The beginning of a teacher-training program: Under Governor Vance's leadership, the legislature of 1877 authorized a normal school for each race. Accordingly, as already mentioned, the Fayetteville Colored Normal School was established, and, to carry out this mandate for white teachers, the first summer school in the United States under the auspices of a college or university was opened at the University of North Carolina in the summer of 1877. The general assembly of 1877 also authorized towns of a certain population to vote taxes for public graded schools. In response to the urging of Governor Jarvis, the legislature raised the property and poll tax rates for schools to 12½ cents and 37½ cents, respectively, provided for the holding of four normal schools for each race, and significantly ordered the county commissioners to levy special school taxes to supply any deficiency for the maintenance of 4 month's schools. In 1889 the normal schools were replaced by teachers' institutes which were held each year in each county by Charles D. McIver and Edwin A. Alderman; and in 1891 the tax rates for schools were raised to 15 cents and 45 cents for property and polls, respectively.

School statistics: In actuality, the public school system did not keep pace with the legislation because the State tax was entirely inadequate to provide a 4 months' term and the supreme court and popular indifference nullified the law and the constitution in respect to the levy of supplementary local taxes. In 1872 the public schools cost $155,000 and enrolled about one-fifth of the children for a few weeks. In 1880 the expenditures were $353,000 for 5,312 schools with 3,266 schoolhouses worth $95 each, running for 9 weeks with an average attendance of about one-third of the children and an average teacher salary of $22 per month. In 1890 the cost was $718,000 and the average term 60 days. In 1900 the expenditures were $950,000 for a school term of 70 days, a 58-percent enrollment, a 37-percent average attendance, and a teacher salary average of $25 a month. Illiteracy actually increased in the 1870's. In 1880, in a total population of 1,399,750, there were 463,975 persons over 10 years of age, more than two-fifths of whom were whites, who could not write. In the 1880's there was some reduction of illiteracy, chiefly among the Negroes. Prior to 1900 the State failed dismally to live up to the educational provisions of the constitution and the law. In that year its public school system was actually and relatively worse than it had been in 1860. It was perhaps the poorest in the United States. Yet only 19.5 percent of the whites and 47.6 percent of the Negroes were illiterate—a marked decrease since 1880.

Public education in North Carolina was severely handicapped by relative poverty due to war and low income, scattered population, bad roads, a large school population in comparison with the number of taxpayers, and the necessity of maintaining a dual system of schools. The standard explanations for educational backwardness were two: the Negro with the danger of mixed schools, and poverty resulting from the war. In reality there was no danger of mixed schools either from local demand or outside compulsion. Poverty was a valid explanation for only a portion of the backwardness and relative decline. Economic recovery from the war was achieved long before 1900; the State repudiated most of its debt; the valuations of taxable property were increasing; and the tax rate was decreasing. The per capita school tax in North Carolina in 1890 was 44 cents a year in comparison with the national average of $2.11.

Mr. President, this concludes the section in the Lefler and Newsome book on education in the Reconstruction period.

At the turn of the century, we in North Carolina entered a new era in public education.

Historians in North Carolina are unanimous in their evaluation of Charles Brantley Aycock as the man who has probably done the most for public education in our State.

Charles Brantley Aycock was born in Wayne County in 1859; he graduated from the University of North Carolina in 1880; and he began the practice of law in Goldsboro in 1881. In 1900 he was nominated by the Democratic Party as its candidate for Governor, and he was elected Governor by a majority of over 60,000 votes.

Governor Aycock's campaign was based on the need for a system of universal education for the State. He lost no time in carrying out his campaign pledge, and as soon as he took office he began an effective crusade for public education for both sexes and all races. Even after his term as Governor expired he did not drop his interest in education.

Governor Aycock was fatally stricken in 1912 in Birmingham, Ala., while addressing the Alabama Educational Association on the subject to which he had devoted his life—universal education.

I would like to read to the Members of the Senate, Mr. President, a short excerpt from Governor Aycock's inaugural address delivered on January 5, 1901. This excerpt is taken from the book, "North Carolina History Told by Contemporaries," edited by Dr. Hugh T. Lefler, professor of history at the University of North Carolina:

> On a hundred platforms, to half the voters of the State, in the late campaign, I pledged the State, its strength, its heart, its wealth, to universal education. Men of wealth, representatives of great corporations, applauded eagerly my declaration. I then realized that the strong desire which dominated me for the uplifting of the whole people moved not only my heart, but was likewise the hope and aspiration of those upon whom fortune has smiled. Then I knew that the task before us was not an impossible one. We are prospering as never before—our wealth increases, our industries multiply, our commerce extends, and among the owners of this wealth, this multiplying industry, this extending commerce, I have found no man who is unwilling to make the State stronger and better by liberal aid to the cause of education. Gentlemen of the legislature, you will not have aught to fear when you make ample provision for the education of the whole people. For my part I declare to you that it shall be my constant aim and effort during the 4 years that I shall endeavor to serve the people of this State to redeem this most solemn of all our pledges.

I think the record will show, Mr. President, that the people of North Carolina have kept the faith in providing the very best education possible for all of those who would attend school.

We take a great deal of pride in what we have accomplished in the field of education in North Carolina. We take a great deal of pride in the fact that people from all walks of life, and all races and creeds and colors, have had a hand in the progress we have made.

We have gone down the road together, because we feel that what is good for any part of North Carolina is good for all of North Carolina.

For many years, the State has maintained a college for Negroes in Durham, the North Carolina College. This college was started in 1910 as a training school for Negroes through the efforts

the late Dr. James E. Shepherd, who was one of our State's most outstanding Negro leaders and outstanding citizens.

Ownership of the college was transferred to the State in 1923.

For many years, Dr. Shepherd served as president of North Carolina College, and I think he was speaking for the entire Negro population of our State in a speech he made on November 24, 1941. Dr. Shepherd, an able college executive who commanded respect of both races, made one of his finest statements in this speech, which was delivered under the auspices of the Negro Lodge of Masons and was broadcast over a number of large broadcasting stations in the State.

I would like to read excerpts from the speech as they appear in Dr. Lefler's book, "North Carolina History Told by Contemporaries."

The excerpts read as follows:

North Carolina has always taken the lead in providing educational facilities for the Negroes of the State. There are five State-supported colleges for the education of the Negro. Each one of these institutions is accomplishing wonderful work. Each one is necessary, and each one is doing work which is reducing crime, promoting efficiency, teaching lessons of health and thrift, and thus reducing the load of the taxpayers, and at the same time promoting good will between the races. She has realized that it is far better to tax for the advancement of our educational institutions for both the white and colored race than to provide for the maintenance and establishment of penal institutions. It is far better to prevent the large waste of human material before it has drifted than to attempt to save it after it has drifted.

This is no time at present to speak about economy when it comes to the maintenance of our educational institutions, and the salaries of our public school teachers. These are the first line of defense.

We are proud of the fact that North Carolina was the first State to provide an insane asylum for the Negro race, the first deaf, dumb, and blind institution, the first department of public welfare, the first to start a public health program. This program has grown to such proficiency that it has been used as an example as to what a State can do along the line of public health for a minority group. North Carolina was the second State to establish a far-reaching setup of the NYA for our group.

I believe that there is more good will between the races of North Carolina than can be found anywhere else. Therefore, I join in saying: "God bless North Carolina." Her sons, both white and black, are proud of her. While we live our best can be given to her. Our utmost strength shall be given to the development of her resources, and the spread of good will so that in the galaxy of States no State shall be more justly proud than our own glorious State.

We in North Carolina have been very fortunate to have leadership through the years which has recognized the importance of education and has worked to improve it. It has not been an easy job in the past, and it is not an easy job today—but we are working, and we are working hard.

All of us must remember that we have been through some very trying periods in North Carolina and in the South. We have lived through events which have tested our dedication to education and the enlightenment of our citizens.

It has been almost exactly 10 years since the Supreme Court made its famous decision which nullified the doctrine of separate but equal school facilities. There is no question about the deep shock our people felt as a result of this decision. Those were very trying days in our State, but we were fortunate that we had the leadership we did have at such a time.

When this decision was handed down, the Honorable William B. Umstead was the Governor of North Carolina. Prior to becoming Governor, he had had a distinguished career in the House of Representatives and in the Senate of the United States. No man has ever taken more interest in his State and in the education of its people than Bill Umstead. When the decision came, Governor Umstead took a very firm position. It was a very simple position.

He said that the policy of North Carolina would be a policy which would preserve the public support of our schools. By this, Governor Umstead meant that the people of North Carolina would obey the order of the Supreme Court, but at the same time they would find a way to preserve the public support of our schools.

These two things had to go together, because without the public support of our schools, it did not make much difference whether or not the order of the Court was followed.

After all, under our system of government, the people are taxed to pay for the operation of the public school system, and if this support is withdrawn or withheld then we no longer have any schools.

Shortly after the decision was handed down, Governor Umstead requested the Institute of Government of the University of North Carolina to prepare a study of the situation. In his report, Dr. Albert Coates, director of the Institute of Government, made this observation:

It appears that at least three courses of action are open to North Carolina:

It can take the course that the Supreme Court has made its decision—let it enforce it; and meet the Court's efforts to enforce it with attitudes ranging from passive resistance to open defiance.

It can take the course that the Supreme Court has laid down the law, swallow it without question, and proceed in the direction of mixed schools without delay and in unthinking acquiescence.

It can take the course of playing for time in which to study plans of action making haste slowly enough to avoid the provocative litigation and strife which might be a consequence of defying the decision, avoid the possibility of friction and strife which might be a consequence of precipitate and unthinking acquiescence, and yet make haste fast enough to come within the law and keep the schools and keep the peace.

What has taken place in the past 10 years shows very clearly that we have moved along with the Court decision, perhaps sometimes slowly, perhaps sometimes reluctantly, but always with care and prudence and always with the determination that we would not close the schoolhouse door to any child.

Of course, we have had problems in preserving our school system in the past 10 years, but we take pride in the fact that we have not had to close one single school for one single day as a result of the Supreme Court decision. This in and of itself has been a tremendous accomplishment.

In fact, a great many of our schools are today open to any child, regardless of his race, creed, or color.

It is probably true that we have not moved as rapidly as some people would like us to move. But the fact remains that we are moving, and we are moving in such a way that we are still providing educational opportunities for all children. If anything, we have enjoyed a period of development in our public schools and in our system of higher education in the past 10 years unmatched by any previous period in our history. We have built hundreds of millions of dollars worth of new classrooms and college dormitories and academic facilities.

Under the leadership of both former Gov. Luther Hodges and Gov. Terry Sanford we have, in this period, concentrated on education as we have never done before.

The leadership that Governor Sanford has offered in his quality education program has received nationwide acclaim, and we are now in the process of making undreamed of progress in education under his able leadership.

I say, in all sincerity, that if we had been sitting on our hands, so to speak, there might be some justification for Federal laws to jack us up and make us move. But this has not been the case and it is not the case today, and I, therefore, sincerely feel that if Congress enacts the bill which is now pending we will run the risk of seeing a period of retreat and defeat rather than a period of progress and development.

I say it would be a tragic mistake for the Federal Government to move into an area with arbitrary and drastic action when we, through our State and local governmental units, are working as hard as humanly possible night and day—to solve the problems we know exist.

We in North Carolina have been able to persuade our people to work together on a neighbor-to-neighbor basis in a manner unheard of in our past.

I believe we are making amazing progress.

I also believe that to move in at this stage with harsh Federal action will mean a stopping of this progress and a destruction of the will of people to work together voluntarily.

Mr. STENNIS. Mr. President, will the Senator from North Carolina yield?

Mr. JORDAN of North Carolina. I am glad to yield to the Senator from Mississippi.

Mr. STENNIS. The Senator from North Carolina has made an excellent point. I rejoice to hear him make it, based upon the background of steady but slow progress in past years, the slow part being due to a number of factors, some of which the Senator related. The Senator has an enlightened view.

The other day I was reading the last chapter in the story of the progress of education in North Carolina. For many years North Carolina has been one of the leaders in many fields. Now, as I understand, the State is engaging in a special

statewide program in connection with other universities including Duke, Wake Forest, and Davidson.

Mr. JORDAN of North Carolina. In addition, we are establishing community colleges. There is one in Wilmington, one in Charlotte, one in Asheville, and one in Hickory. Some of the colleges started as 2-year institutions; and now some of them are 4-year institutions. They will become, of course, branches of the universities; but this was done to provide education to many boys and girls who otherwise might not be able to go to college. In this way, they can live at home. The colleges have no dormitories. They have only teaching units; and the students can live at home. Registration and tuition fees are low. We have one of the finest educational systems of any State in the Union.

Mr. STENNIS. I heartily agree. I believe the State of North Carolina is entering upon a new era, on top of what it has already accomplished.

Is it not the Senator's judgment, based upon his experience—and he has been a part of the progress of North Carolina for many years—that those fine relations such as the neighbor-to-neighbor policies which the Senator mentioned, could be destroyed, which, in a measure, would disrupt and nullify some of the progress which has been made in North Carolina since the Brown decision of 10 years ago? Is not the Senator firmly convinced that that would be a wrong approach; and that it would be better to keep the emphasis where it has been, based upon cooperation and better understanding? Does not the Senator believe that his State will go farther and faster with its own method?

Mr. JORDAN of North Carolina. I am convinced of that. North Carolina has more Negro colleges than any other State in the Union. For many years it has had many more Negro colleges. The college in Greensboro has a registration today of several thousand Negroes. It is a technical school, which graduates many fine students. They are finding positions all over the country in industries requiring well-trained workers. The teachers' colleges are furnishing many teachers. Many of the colored teachers working in Washington, D.C., came from teaching institutions in North Carolina. There are many colored schoolteachers in North Carolina. The schools are staffed by competent colored teachers, many of whom have masters' degrees. They remain in the teaching field and become better educated by taking summer courses, further developing their basic teaching foundation.

Mr. STENNIS. I commend the Senator from North Carolina. He has made one of the best and most impressive speeches that has been made on this subject. His presentation is down to earth, and based on commonsense. It deals with the realities of life. The Senator has a personal understanding of the problem, and also of the attributes of human nature with which education is so much concerned.

Mr. JORDAN of North Carolina. I thank the Senator from Mississippi for his kind remarks. The University of North Carolina has been integrated for at least 10 years. It started as a graduate school, having been an undergraduate school. Duke University is integrated, and so are Davidson and Wake Forest. We have had no problems. We have been quietly moving ahead. We believe that is the orderly process, without enforced movement of masses of white or colored students, because that only disrupts communities. The program is working all right, without any problems.

Mr. STENNIS. I thank the Senator, and congratulate him on his fine presentation.

Mr. JORDAN of North Carolina. Mr. President, I yield the floor.

U.S. NEWS & WORLD REPORT ANSWERED

Mr. METCALF. Mr. President, U.S. News & World Report does not publish letters to the editors. Thus the magazine's readers are denied correction of inaccurate reporting.

The March 16, 1964, issue of U.S. News & World Report carried an article entitled "Where Money From Washington Is Being Turned Down." I inserted the article in the RECORD on March 14—pages 5261–5263—along with my comments on the role of electric power companies in the manufacture of what some editors erroneously conclude is public opinion.

A number of persons who read the U.S. News & World Report article sent me copies of their letters to its editor. Because the magazine does not publish letters, and in an attempt to correct the inaccuracies disseminated by the magazine, I ask unanimous consent to have printed in the body of the RECORD the letters which I received.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SEDONA, ARIZ., *March 21, 1964.*

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR MR. LAWRENCE: For the first time in a number of years of pleasant reading of apparently impartial and instructive news coverage, I now experience earnest apprehension at the half-truths and outright falsehoods contained in your article "Where Money From Washington Is Being Turned Down." The March 16 issue of U.S. News & World Report will, to many better informed Americans, join the long parade as another example of diehard politics which have found it necessary to resort to "the big lie" in public press (which they seem to own or control) in order to gain support for little, selfish philosophies regarding development—rather, nondevelopment—of our valuable western natural resources.

To begin with, the first paragraph of the article is dead wrong. Nothing has changed with respect to attitude toward the Government in Washington by the people of Montana. For many years a powerful moneyed minority in Montana (yes, they own or control the press here, too) have carried on the distinguishing "hate-the-Government" campaign.

In spite of this opposition, however, Hungry Horse Dam was built on the Flathead River in western Montana. This was accomplished, perhaps as may be expected, during a Democratic administration in Washington and at the request and concurrence of a marked majority of Montana citizens. "Hungry Horse Dam will be the ruination of Flathead County," wailed the captive press. Records reveal, however, that during the first few years in which cheaper electric power was available from this dam, Flathead County's taxable valuation increased by more than $40 million. This may sound like "peanuts" to you eastern people, but to Montanans it spelled progress through orderly development of one of our most precious resources.

To move along a little further with the article: It is common knowledge among those who live within the area involved that one could count on the fingers of one hand the number of farms or ranches which may be considered as self-contained, economic units within the immediate area to be inundated by the backwater from Knowles Dam. This area is considered very marginal with regard to soil quality and productiveness. Each year finds more landowners "giving up" and selling out to larger landowners.

And timber: As a former Forest Service employee in western Montana, I know for a surety that very little, if any, timber would be lost or isolated because of land flooding. In fact more remote timber stands may be made marketable because it could be rafted or floated to sawmills. This would eliminate the alternative of hauling logs long distances over costly constructed logging truck roads across rough mountainous terrain.

As a former county commissioner of a county adjacent to Lake County, the site of the proposed Knowles project, I have had ample opportunity to become quite well acquainted with members of the Flathead Indian tribe. It may, and does, cause a lifting of eyebrows to learn that a majority of the economically poor Flathead Indians are in favor of selling a portion of their reservation lands. They stand to be very adequately paid for any land contribution they may make. Oh, yes, one or two "spokesmen" for the tribe say the Flatheads are against Knowles. This, in turn, has been prompted by coercion from one of Montana's leading private monopoly corporations.

This brings us down to the real opposition to such projects as Knowles. The present Governor of Montana has quite dutifully alined himself with the "power company" and one or two other out-of-State exploiters of Montana resources, to form this spearhead of opposition. They oppose anything which may pose a threat to their "having their cake and eating it too." The power company would demand the right to sit straddle Montana's rivers for the next 40 or 50 years and eventually, piecemeal, install a few "run of the river" generating dams, with no thought or plan for water conservation, flood control, recreation, irrigation and navigation.

I mention out-of-State exploitation because reportedly, from the power company's records, more than 80 percent of the stock represented in this company is owned by stockholders living outside Montana. Because of this monopoly, Montanans pay one of the very highest electric power rates in the Nation; and this in an area where a great abundance of free-falling water should be providing industry with attractive lower rates. This, it is believed, is a prime reason for a depressed Montana economy. Industry does not like high electricity rates; industry does not feel secure in investing in an area wherein a large segment of the economy has fallen under the "thumb" of one or two large industrial corporations. The power company has, as reason for existence, the obligation to produce profit to stockholders—big profit at the expense of Montanans. This corporation is actually exporting one of Montana's greatest resources, water, out of the State in the form of electricity.

Other unharnessed rivers in Montana are going to waste, or being used as sewer dumps, if there is a difference.

It is my studied opinion that the West—more especially Montana—is definitely taking another look, as your article suggests. But, again contrary to your thinking, this look will be followed with a demand by the people for the orderly development of the rivers which spring from the great watersheds of Montana. The people's rivers, Mr. Lawrence, will be harnessed with full multipurpose development where required, not piddling run of the river plants, built to prolong the music of Eastern cash registers. I firmly believe the few years to come will prove this viewpoint right.

Finally, freedom of the press is a wonderful thing in a free nation, but in the case of your article the question arises: Freedom for whom? If this hate-the-Government effort should succeed nationwide, what would be left for us for which to be proud, or on which we could depend for adequate representation? Could private monopoly or big business possibly fill the bill?

In the name of democracy and for the good of the greatest number of Americans over the greatest period of time, why can't your magazine demonstrate the wisdom necessary to gather facts from both sides of this vital issue, then have the fortitude to present them impartially and honestly?

In these days when our Nation is successfully negotiating one serious crisis after another, it saddens me to read words presented as fact which, in my humble opinion, make bullyboy Khrushchev look like George Washington heading for the cherry tree.

Sincerely,

MONDELL BENNETT.

ROLLINS, MONT., *March 17, 1964.*

Editor DAVID LAWRENCE,
U.S. News & World Report,
Washington, D.C.

DEAR MR. LAWRENCE: When I read U.S. News, the Saturday Evening Post, Life, our area dailies, the Prague newsletter, or any other publication, I still have the right to form my own opinion. Any publication should be able to give a good reason, other than money, for giving this publicity.

There have been some gems in the past and always will be, but just what justifica tion, other than money, you may have had in "nonfact" articles on the proposed Knowles Dam is beyond, far beyond, my comprehension.

Four years ago I spent most of 16 days touring downstream from Hungry Horse Dam at the headwaters to Bonneville out of Portland, Oreg.

Knowles would provide storage for about 16 other plants now operating or under construction. More will be added. That includes what is usually called private power, Puds, and Federal development.

I was at the Knowles proposed damsite twice this summer and was also at the proposed Libby Dam site and reservoir area twice the past summer.

Almost all the runoff for Knowles Reservoir would be from our own drainage. A little comes out of Canada down the North Fork River.

Practically all water to be stored at Libby would be from the Canadian drainage. Damage to residents and the area would be much greater in the Libby district than the Knowles district.

This is the 40th year that I have operated a grocery in Lake County and the construction of Knowles Dam would be the best boost, that I know of, that could happen to Lake County.

You certainly have placed your free, and untrue, advertising for private monopoly far higher than what would be good for northwest Montana, the State as a whole, and the United States.

Sincerely,

FRED R. UHDE.

MISSOULA, MONT., *March 20, 1964.*

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR SIR: Your March 16 report on Knowles Dam completely ignores the fundamental issue of water conservation.

Water is essential to life. It is limited in quantity. The only way of stretching our available water to meet the needs of our increasing population is by getting the greatest possible use out of every gallon.

That is why many of us in western Montana believe it is vitally important to have a multipurpose dam on the Flathead River in the Paradise-Knowles area rather than a single-purpose, private-power dam at Buffalo Rapids.

That is also why we have repeatedly sent to Congress men who believed in multipurpose use of our Nation's rivers.

I regret very much that a magazine of national circulation should have chosen to give so much aid to the proponents of a shortsighted attitude toward the question of conserving our Nation's water resources.

Yours truly,

ANDREW BROWMAN.

RONAN, MONT., *March 19, 1964.*

Mr. DAVID LAWRENCE,
Washington, D.C.

DEAR SIR: Your article on "Where Money From Washington Is Being Refused" is very much resented by a great number of people who know the facts of the case firsthand.

Your article repeats practically all of the old propaganda of the private power companies against Knowles Dam.

One point that I am going to express my views on is: the great exaggeration of the fertility of this region. You did not mention the boulder strewn areas, the rock-covered mountainsides and the gravel pits. All has been listed as fertile soil.

An Indian farmer with whom I talked and who was in favor of the Knowles Dam said, "I wanted to raise some sugarbeets. I went to the factory to see about it. They told me the first thing that I would need to do would be to put on 400 pounds of fertilizer per acre. Then they talk about the fertile land that would be covered."

A great many people whom I know, that live in that area, are in favor of the dam in spite of the fact that they would have to move. They are in hope of finding a better place to live.

If the amount of money the Crow Indians got for their land would be any indication of what the Flatheads might get, they should all be glad to sell and buy better land in the nearby Mission Valley.

The Crows received $2,500,000 for 7,000 acres or approximately $350 per acre of canyon walls and a little grassland at the top of the reservoir. If this land of the Crows had been offered to me at $10 per acre before the talk of the dam I would not have taken it.

Our Governor who had termed Knowles Dam as pork barrel is in favor of Libby Dam and raised no hue and cry about Yellowtail Dam. He has a contract to haul cement to the Yellowtail Dam with his trucking firm in Billings. (Of course this is not pork barrel.)

Neither Yellowtail nor Libby Dams affect The Montana Power Co.

Reason for all of the objection is: Montana Power wants to build a couple of birdbaths size dams at Buffalo Rapids Nos. 2 and 4 on the Flathead River. The building of Knowles would prevent them doing it. The small dams would benefit no one but Montana Power.

The great cry and argument for the tax that the private power pays is all nonsense, as the consumer pays it every time he pays a light bill. They pay it regardless of how, and had just as well pay it one way as another.

Montana Power has a profit of 9.5 percent after expenses, 85 percent of which goes to Eastern capitalists. We would like to keep that money in Montana.

If you will be fair to the people of western Montana you will give the other side of the hearing on Knowles Dam. It is a multipurpose dam.

Yours truly,

W. T. RAGAN.

MARCH 22, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR MR. LAWRENCE: I am deeply distressed by the grossly misleading article on Western resource development in your March 16, 1964, issue. The tenor and content of the piece is wholly out of keeping with the usually reliable, although conservative, content of your magazine.

There is much support for Knowles Dam in Montana. Nearly one-half the population of the State has been represented in favor of the project in various hearings.

Governor Babcock is opposed to Knowles, echoing the arguments of the Montana Power Co.

The Governor is very righteous, of course, when he speaks of this multipurpose project on the Flathead River. "It's plain old pork barrel. I can't subscribe to this raid on the Federal Treasury, even for use in my own State."

Did Gov. Tim Babcock tell you that his trucking firm has a substantial contract hauling cement for Federal Yellowtail Dam now under construction on the Big Horn River south of Billings, Mont.? It would be only fair for your magazine to tell your readers this side of our Governor's philosophy which justifies Federal support for his private business but not for resource development that would help everyone. It makes a difference, apparently, whose "pork" is in the barrel.

The U.S. News article presents a rosy view of the current agriculture in the area that would be flooded by the proposed reservoir. It is not 90,000 acres but about 60,000, and they are not all fertile acres. Less than 900 people are involved. Many of them are suffering from a depressed economy in the area, hoping for the Government to take their property at a reasonable price. While some ranch operators are holding out, many of the property owners, farm, and smalltown residents and businessmen, would like to sell soon before the value of their properties decline further.

Chief peddler of the forcing-people-off-the-land argument is the Montana Power Co. I would suggest that your writer consult the CED's book, "An Adaptive Program for Agriculture." There he will find this same private utility, along with a number of other big business firms, is a sponsor of a 5-year plan to move 2 million American farm people off their land by withdrawing credit and lowering farm prices. The CED plan would bankrupt 2 million people while the Knowles Federal project concerned with relocating about 900 would pay them fair market prices for their equities, and offer opportunity to better livelihood by the new resource facilities and new stimulation to the local economy.

Opponents of the project often make a big issue of the cost of relocating some 35 miles of railroad. I note that the U.S. News piece reports the same objection. It is a rather curious thing, however, no one has objected as far as I know to a similar situation on the Kootenai River, farther north where Federal Libby Dam will soon be under construction

At Libby, nearly 60 miles of railroad line will be relocated at a cost of about $110 million. This includes construction of 7 miles of railroad tunnel, the second longest in the Nation. Why object to railroad relocation at Knowles and accept a more extensive and costly relocation requirement at Libby?

Knowles Dam in western Montana as well as the proposed projects on the Fort Benton to Fort Peck stretch of the Missouri River in eastern Montana would be self-liquidating projects with an estimated payout in 50 years. Each would cost less than the expenditure for a modern aircraft carrier. I daresay total U.S. expenditures for multipurpose reclamation projects since Teddy Roosevelt started the program early in this century have cost the Nation less altogether than 2 months of the cost of the annual budget for the Defense Department. Much of the resource expenditures is returning capital funds with interest to the Treasury and manifold benefits to the people and the Nation.

Sincerely,

LEONARD KENFIELD,
President, Montana Farmers Union.

HELENA, MONT., *March 24, 1964.*

The EDITORS,
U.S. News & World Report,
Washington, D.C.

GENTLEMEN: There are but two possible explanations for your recent article on Knowles Dam:

1. Sloppy reporting, or no reporting or editorial research at all, or

2. You are getting all of your information from the Montana Power Co. or the Northwest Power Co.

In either case, informed Montanans are left with the distinct impression that you are being used, or that you are attempting to use them. They are wondering if all of your stories are as badly slanted. I would think this would hurt your prestige and your circulation.

Or don't you care?

Sincerely,

GORDON R. BENNETT.

MONTANA LAKE COUNTY
DEMOCRATIC COMMITTEE,
ROLLINS, MONT.,
March 18, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News,
Washington, D.C.

EDITOR LAWRENCE: This is written as a protest concerning your recent long and untrue report of Knowles Dam project.

We need industry in northwest Montana and the Northwestern United States and I know of no other way that we could get cheap power other than through Federal development. Lake County decreased in population about 2,000 between 1950 and 1960. Much of the proposed storage basin is worthless ground and people have been leaving ever since homestead days. The small villages have slipped so badly that even some of the grade schools have closed. The railroad has closed several of the stations.

If we cannot get low-cost power we had just as well quit and move to other States, as thousands of others have done.

Before you publish an article of such importance it would appear some facts would be established. Private power had preliminary permits on two sites back in the 1930's and failed, or rather made no effort, to develop them.

It should be recognized that if Mr. Nixon had been elected that private power would not now be shrieking to high heaven to stop something that did not interest them before.

Please explain to me how it is possible for you to pretend to serve the people and still publish an article so unreasonable and so far from facts.

Yours truly,

JAMES UHDE,
Congressional Committeeman.

BOZEMAN, MONT.,
March 23, 1964.

TO THE EDITOR,
U.S. News & World Report,
Washington, D.C.

DEAR SIR: The March 16, 1964, issue of your magazine, U.S. News & World Report, carries an article concerning Knowles Dam and states the Knowles project has become, "a symbol of a revolt in the West against Federal dam builders." Among objections raised against Knowles Dam are: It would flood a fertile valley, displace 1,300 people, and break a 100-year-old treaty with the Flathead Indians.

The proposed Knowles Reservoir is not in a fertile valley as claimed in the article. It is largely a desolate area surrounded by many abandoned homes and farm buildings. There are not 1,300 people living in the reservoir area and the majority of those living in the area favor the construction of Knowles Dam as a means of liquidating comparatively worthless holdings.

I don't think the 100-year-old treaty with the Flathead Indians will be broken any more by the construction of Knowles Dam than it would be by the construction of Buffalo Rapids, a dam proposed by Montana Power Co., to be built on the same site. Either the Federal Government or Montana Power Co. will have to negotiate the purchase of necessary rights with the Indians.

There is no "timber industry above Knowles" that "would lose access." If there were a timbered area, the Knowles Reservoir would provide the best means of transportation. Water has always been the most desirable means of transporting logs and the areas along rivers and around lakes are always the first to be harvested because of their accessibility.

Sincerely yours,

BERNHARD MERKEL.

KALISPELL, MONT.,
March 24, 1964.

U.S. NEWS & WORLD REPORT,
Washington, D.C.

GENTLEMEN: I read your article in regard to Knowles Dam in the March 16 issue. In my opinion most of this article was very misleading. Just last week I had occasion to drive through the area that would be flooded by Knowles Dam.

If this is considered to be fertile agricultural land I am surprised that the people of the United States haven't starved to death a long time ago. Just from observing the land from the highway it appeared to me that there was very little land worth farming in the whole valley and there was very few farm buildings in view.

This valley would certainly make a natural reservoir for the much needed storage of water in the Northwest. In connection with my work I have occasion to travel through and around the area which would be affected by Knowles Dam. Nearly all of the people who I have talked to are in favor of a public power dam at Knowles or Paradise.

The only people who seem to be opposed to Knowles Dam either have some connection with Montana Power Co., or are in sympathy with them. They seem to think the Montana Power Co. should build two dams at Buffalo Rapids. This would not be as beneficial to the public and it would certainly be breaking trust with the Indians as much as a public dam at Knowles or Paradise would. Either one would have to be negotiated with the tribal council.

Yours very truly,

RAYMOND P. PETERSEN.

ANACONDA, MONT.,
March 23, 1964.

U.S. NEWS & WORLD REPORT,
Washington, D.C.

DEAR SIR: I am writing this letter because I heartily disagree with your article on Knowles Dam. You misstate the facts and echo the sentiments of the monopoly known as the Montana Power Co. The Montana Power Co. proposes to build projects known as Buffalo Rapids No. 2 and Buffalo Rapids No. 4 at the Knowles site. These projects would only develop a portion of the potential of the natural resources and would block the full use of the remainder of the potential forever.

The treaty with the Flathead Indians will not be broken to any greater degree by the construction of Knowles than it would be by the building of the Buffalo Rapids projects proposed by the Montana Power Co.—rights would have to be purchased from the Indians for either project.

As for the National Bison Range, all measures necessary to prevent damage or loss to fish and wildlife resources are included in the Knowles project plan. No objections to the project have been made by the Secretary of the Interior or by the head of the U.S. Fish and Wildlife Service. Many conservation groups are actively supporting Knowles. The project plans provide for acquisition of 10,000 acres to replace the bison and game range.

Governor Babcock opposes Knowles, and favors Libby Dam, which is located outside the area dominated by the Montana Power Co. Let's compare these projects:

Libby Dam will displace hundreds of people, too.

Libby Dam will cause the relocation of more highway and railways than Knowles. It will cost more to relocate the Great Northern Railroad at Libby than it would to relocate the railroads and highways for Knowles.

Half of the downstream power from Libby Dam is allocated to the Canadian Government to sell in the United States.

We can agree Libby Dam is a desirable project, and by comparison Knowles is an even more desirable project for the full development of Montana.

Governor Babcock cannot be sincere when he supports Libby Dam and opposes Knowles, because Montana needs both of these projects to fully realize the potential of its natural resource—water.

Sincerely yours,

EDWARD A. JOHNSON,
Deer Lodge County Representative.

P.S.—Gov. Tim Babcock's trucking firm has an exclusive contract to haul cement to the federally financed Yellowtail Dam. It this plain pork barrel?

ANACONDA, MONT.,
March 24, 1964.

TO THE EDITOR,
U.S. News & World Report,
Washington, D.C.

DEAR SIR: I write in reference to your article on page 76, of the March 16, 1964 issue entitled, "Where Money From Washington Is Being Turned Down."

First, let me say as a lifelong resident of Montana (48 years), I read the article with the utmost disgust as it does not present the true picture here in Montana. It is largely nonfactual and smells of the same propaganda being handed down by the Montana Power Co., one of the big trusts that is retarding the growth and development of Montana in objecting to construction of Knowles Dam and replacing it with their own Buffalo Rapids. They also will run into the same difficulties in obtaining this land and replacement of people. Why wasn't the honorable Senator LEE METCALF, who is the sponsor of this project,

consulted and his views presented in the writing of this vicious article?

As for making a hero out of Gov. Tim Babcock, I ask you, just look at the record. Montana business failures in 1963 were more than double any previous year, 1958 through 1962. Also why has there been so many Government proclaimed depressed areas in Montana since he ascended to the governorship? Please note how interested he was in obtaining Federal funds for the Yellowtail Dam, also the Libby Dam which is outside the area dominated by the Montana Power Co.

He has always had his hand out in Washington, D.C. for highway grants, as his firm is one of the leading road contractors in our State.

If this is the best you can do on reporting items concerning Montana and the Nation as a whole, it would be well for you to study the facts much more closely.

I remain,

OWEN P. MCNALLY.

MARCH 27, 1964.

DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR MR. LAWRENCE: Your article on Knowles Dam in March 16 issue was a far-fetched propaganda piece that should have been checked against the facts. No one familiar with the area could have written it, unless it was to serve a purpose without regard to fact.

A tour of the proposed Knowles Reservoir area would show you the abandoned homes, ranch buildings and dilapidated vestiges of former villages, the owners of which are highly in favor of the dam as their last means of salvaging what they left. Polls in and around the area, including State and county elections, prove the overwhelming majority favoring Knowles construction at the earliest possible date.

You should recheck your facts and correct your very inaccurate article.

Very truly yours,

ANGELA ROGERS.

LIBBY, MONT., *March 26, 1964.*

EDITOR,
U.S. News & World Report,
Washington, D.C.

SIR: I was much disappointed upon reading your article in regard to Knowles Dam in your March 16 issue. I have usually found your reporting to be factual and objective. However, this article is a mishmash of warmed-over Montana Power Co. half-truths and propaganda containing very little that is factual.

As for the heroics of Governor Babcock in opposing construction of Knowles Dam, I predict that the electorate of Montana will turn him out of office in the coming election because of this and other "heroic" stands that he has taken.

Yours very sincerely,

WM. G. SHAWL.

KALISPELL, MONT.

BUTTE, MONT., *March 26, 1964.*

U.S. NEWS & WORLD REPORT, INC.,
Washington, D.C.

DEAR SIRS: After reading your article on Knowles Dam in your March 16 issue, I felt that I must sit down and voice my feelings about your disregard of many of the facts as the average person here in Montana gets them.

I read your magazine considerably in my spare time and have found that you are usually factual in your approach to such subjects. This time you wrote without regard for the facts. It is quite laughable when you state that our Governor calls the Knowles project "just plain pork barrel," and I think of Yellowtail Dam (Federal grant) which the Governor is heartily in favor of (he is realizing personal gain in his business firm from this dam).

Incidentally, you probably know that private electric utilities all over the country staged a massive propaganda fight against Knowles Dam when it was up for congressional consideration, and now our Senator METCALF is as he says, "just getting interested in them" because they were so "interested" in Montana. Why shouldn't private electric utilities be interested in building dams when they can charge a rate per kilowatthour that is three times that of a public power project?

So much for now. Next time let's be a little more fair in presenting the facts in your national publication.

Respectfully yours,

HENRY PERMANN.

ROLLINS, MONT.,
March 18, 1964.

MR. DAVID LAWRENCE,
U.S. News & World Report,
Washington, D.C.

MR. LAWRENCE: In reference to your U.S. News dated March 16, 1964, I wonder what consideration this received before it went into print and was sent out to deceive the people concerning something that would have some effect on every American and especially those of Northwestern Montana.

Did the writer of this Knowles Dam article merely select some corporation advertising and propaganda and infer that they were facts?

Do you contend that it is the American way or an honest way of life to misrepresent something? Either large or small?

An unbiased brief study of the Knowles project would show anyone that it would be a big asset and is badly needed. It would bring us more power without the high private power inflation all along the line.

What damage would result from the flooding of the reservoir area? How many people would be displaced? We had long heard this doubletalk of losing taxes on one hand and destroying Indian land, nontaxable, on the other hand.

We also have long heard about selling people down the river and do you approve of doing that?

Knowles Dam would be good for all of America and it would add a lot to defense by providing a reserve water supply for use downstream.

Are we all Americans interested in the welfare of America or are we just pawns in the game of Monopoly?

Please tell us.

Yours truly,

MARYBETH UHDE.

BUTTE, MONT.,
March 26, 1964.

U.S. NEWS & WORLD REPORT, INC.,
Washington, D.C.

DEAR SIRS: Re your March 16 issue, I wish to register my personal complaint on your article on Knowles Dam, which seemed to be our Governor's personal attitude toward this dam, and one that I will assure you is not necessarily the opinion of a great number of people here in Montana. You certainly owe it to your readers to state arguments and facts from both sides of this controversial issue. Let me say that I have no ax to grind, but am a great lover of truth and am speaking as one who will realize no monetary gain whatsoever.

Please bear with me while I make a few comparisons to statements made in your March 16 issue.

The proposed Knowles Reservoir is not a fertile valley as claimed, but is largely a desolate area surrounded by many abandoned homes and farm buildings.

There are not 1,300 people living in the reservoir area, and the big majority of those living in that area favor Knowles Dam as a means of liquidating comparatively worthless holdings.

In regard to the National Bison Range, the project cost includes purchase of more adjacent range than would be flooded.

About the Flathead Indians—regardless of who builds a dam or dams in that area, the rights of the Indians will have to be respected and negotiated, but certainly not broken as stated.

Further, there is no timber industry above Knowles that would lose access. And, if there were, what better way is there of transporting logs than by water. On the other hand, Libby Dam, favored by our Governor, would flood out vast areas of timber.

As for railroads and highways, there always will be the cost of relocation, but in the case of Libby Dam, it will cost more to relocate the Great Northern Railroad alone, than it will to relocate the combined railroads and highways for Knowles Dam. That's "pork barrel."

Furthermore, Libby Dam happens to be outside the area dominated by the Montana Power Co. and they are not interested in building a dam in that area.

To sum it up, your article appears to me to be one sided, and written without regard to the facts as I see them.

Thank God we live in a country where you can print an article like you did, and I, in turn, can make my objections heard.

Respectfully yours,

JAMES K. HENRY.

GLASGOW, MONT.,
March 19, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR SIR: In regard to your article on Knowles Dam and proposed dams on the Missouri River from Fort Benton to the Fort Peck Dam in the U.S. News & World Report of March 16, pages 76–79. We feel that the article is badly confused. We know that there is going to be a shortage of electric power by 1968. There is talk of raising rates for all consumers of electrical power users. We feel, to meet this demand, that we must have hydroelectric power to serve the citizens of the United States.

There is a great need for public power because irrigation, flood control, and electric power go together, and one can't be developed economically without the other. We can't expect private power to develop flood control and irrigation beside electric power. The projects mentioned in your article would do all three.

Studying your article makes me think that you are unknowingly trying to curb one of the greatest sources of income for our Nation.

In your article you quoted Governor Babcock of Montana as saying, "It's plain old pork barrel. I cannot subscribe to this raid on the Federal Treasury, even for use in my own State." Governor Babcock didn't object to the Yellowtail Dam in southeastern Montana. As it is a very profitable adventure for Governor Babcock personally, as he owns a trucking company that has enormous contracts to haul cement for this Federal project.

There are many people in Montana that support the Federal Government developing our natural resources. What few we have has created new industry and employment. This means great strength to the economy of our Nation.

It seemed to us that this article needed an answer because, living in Montana, we realize the need of multipurpose dams.

Sincerely yours,

Mr. and Mrs. SIDNEY COTTON.

CONRAD, MONT.,
March 31, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR MR. LAWRENCE: I have just read your story, for March 16, 1964, "Where Money From Washington Is Being Turned Down." I am curious as to the source of your information, for it seems to resemble so closely that flooding the mails by our large monopolistic power company.

To one who is not familiar with the many years' effort to harness our rivers for the benefit of all the people, it would seem from your editorial that this is a new plan, beginning with the Kennedy administration. These plans have been in the making through several administrations, both Democratic and Republican.

The only major opposition has always stemmed from this utility company, though this opposition is hard to understand. They opposed, just as strenuously, the building of Hungry Horse, another dam on a tributary of the Clarks Fork. Yet because of the constant flow of the river throughout the year, made possible by the dam, this company has realized greater returns from additional power.

Their opposition has become more noisey for they have the support of the extremists. A recent survey reveals 18 of these groups, active in Montana. These groups are concentrating their efforts in the Rocky Mountain States and I don't need to explain the results of their influence.

Don't feel sorry for the people who will be relocated. The average income of this area is very low and most will welcome the opportunity to sell at a fair price. In return, those in adjacent communities see a hope to raise their income.

Also a poll was taken among the Indians and it was found that their opinion did not agree with that expressed by their leaders. Some, living in the area have wondered how profitable was this opinion to the leaders.

To those of us who want to continue to live in Montana and want to see her people receive a fair return for her natural resources, this is a discouraging story. After all, we too, are a part of the Nation and our well-being adds to the well-being of the whole. We who have worked for Federal water projects, know that they have been a most profitable part of the Nation's business. They are an investment, not a handout.

We invite you to come to Montana. Check with those backing a Knowles Dam and you will see our need.

Sincerely,

Mrs. LOUIS FLOERCHINGER.

MARCH 24, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

DEAR EDITOR LAWRENCE: I have read your article "Where Money From Washington Is Being Turned Down" in the March 16 issue and I would like to make a few comments.

I do not believe that the many Knowles proponents in Montana think of the Knowles project as being any more of a "pork barrel" than the publishers of the Nation's magazines think that there is "pork barrel" for themselves when the postal department picks up the huge deficits caused by insufficient revenues from the postal rates in handling the mailings of the magazines.

If our Republican Governor is really opposed to "plain old pork barrel" why did he authorize the expenditure of public funds to purchase a plush airplane for himself? If he uses this airplane for personal use, that may not be "pork barrel"; but could it be eating pretty high on the hog?

His conscience does not seem to bother him in taking approximately 40 percent in Federal funds to operate the Montana State budget. His conscience does not bother him as far as his trucking firm is concerned in the matter of having an exclusive contract to haul cement to the federally financed Yellowtail Dam. Neither the Montana Power nor the Governor are opposing the building of a Federal dam at Libby, Mont.

Why then does he oppose the building of Knowles Dam? Is it a "block" that leads the Governor to this opposition? The revolt by the Governor of Montana against the dam builders and against money from Washington is by no means all inclusive and his opposition is looked upon by many people who are proponents of Knowles as a Babcock inconsistency.

Yours very truly,

GRACE DERR.

MARCH 14, 1964.

Mr. DAVID LAWRENCE,
Editor, U.S. News & World Report,
Washington, D.C.

SIR: Many of the alleged facts in the private power propaganda article in your issue of March 16, are erroneous. They are, furthermore, identical with errors in testimony given by witnesses for Montana Power Co. and its front organizations at congressional hearings on Knowles Dam.

"It would inundate a fertile valley of 60,000 acres," is sheer nonsense. Your source supplied you with photographs of the best sections. Actually only 9,000 of the total 60,000 acres are irrigated, and some of that is so gravelly it takes 5 times as much water as land in other parts of the project. I know at firsthand. We pay exactly the same amount for 1 acre-foot as people in the Moiese do for 5. The other 50,000 acres are largely rocky canyon or dry sagebrush.

Additional land adjacent to the present Bison Range, which the Fish and Wildlife Administration says is suitable for replacement for the land to be flooded, has been included in the project cost.

Access to timber will not be lost.

The purpose of the Indian treaty, which you allege would be violated, was to protect the Indians and provide them with the means of earning a livelihood. The Reservation no longer does this. Many Indians have been forced to leave to find work. A recent newspaper headline called the reservations of Montana "cesspools of unemployment". Senator METCALF has proposed that payment for the Indians' power sites be made in a block of power with which they could set up their own industries, or attract private industry to provide employment for members of the tribes now living on welfare. Actually this would carry out the spirit and purpose of the treaty, whereas maintenance of the status quo would not.

The grazing lands in the reservoir area belonging to the Tribes are now rented by seven Indian Stockmen's Associations with a total listed membership of 35, most of whom are related by blood or marriage to members of the tribal council. They pay around $3,700 annual rental. Thus the approximately 4,000 other members of the Tribes get less than $1 in annual benefits from the grazing lands.

You make no mention of the fact that the original purpose of Knowles is flood control. Even with the storage provided by the proposed Canadian dams and Libby, an additional 8.3 million acre-feet of flood control storage will be needed. The Clark Fork-Flathead is the third worst "flooder" of the Columbia Basin. Corps of Engineers studies show that 4 million acre-feet of required storage must be on this tributary. Knowles will furnish 3 million. It is the most feasible site. The small, single purpose dams Montana Power would like to build—a fact you fail to mention—would preclude forever the construction of a storage control reservoir on this reach of the river.

Without flood control storage, potential flood damage will increase from $38 million annually in 1957 to $51 million in 1980, as the flood plain of the lower Columbia becomes more thickly settled.

The flood of 1948 destroyed the city of Vanport completely. Damage throughout the basin was over $110 million; 582,000 acres of land were inundated; 120,000 people had to be evacuated from their homes; 38 people were drowned. Failure to provide flood control storage is courting similar disasters.

Now as to Governors. Why single out Babcock who opposes Knowles, but omit mention of Governors Rosellino, Democrat, of Washington, and Hatfield, Republican, of Oregon, who support it? (See their statements in the Senate and House Hearings on Knowles.) Is this fair reporting; or is it propaganda with a purpose?

In Montana, Babcock's administration is unpopular with so many people for so many reasons—prominent among them his stand on Knowles—that a grassroots movement to dump him in favor of Dr. Roland Renne, for 20 years president of Montana State College, a draft supported by Republicans and Democrats alike, is sweeping the State.

The Senate has approved Knowles three times; the House has rejected it only once. The lopsided vote you attributed solely to Knowles was affected by many other issues. You will doubtless hear from Montana's delegation in Congress, who are more familiar with parliamentary maneuver, on this aspect of your story. Doris Fleeson attributed part of the opposition to a desire to punish freshman Representative ARNOLD OLSEN for his activity in the Democratic study group which is trying to bring about reform of congressional procedures, a far cry from opposition to a dam near the Continental Divide.

Finally, you quote Senator JORDAN of Idaho in opposition to Knowles, but you do not mention that Majority Leader MANSFIELD and Senator METCALF of Montana, in whose State Knowles will be built, favor the project, as did the late Senator Murray, chairman of the Senate Interior Committee. Nor do you mention that it has been proposed by the Corps of Engineers, after very thorough study, as a multipurpose project, economically feasible even if built after the Canadian dams; that it has been approved by the Secretaries of Army and Interior, by the Bureau of the Budget, by the President.

Though your magazine does not have a letter's column, as do other news weeklies, in which readers can express their dissent, do you not owe a duty to the public to let them know you were doing a onesided propaganda job for the private utilities, not a fair job of reporting facts?

Very truly yours,

FRANCES D. LOGAN,
Democratic National Committeewoman
for Montana.

MISSOULA, MONT.,
April 2, 1964.

DEAR SIRS: I am writing you in regard to the article in the March 16 issue of your magazine about the proposed Knowles Dam on the Flathead River in Montana.

After reading the article I began to wonder how it was possible to collect so many half-truths and untruths in one short article.

It was so onesided that I couldn't help but wonder if there wasn't someone behind it with an ax to grind. The name was not mentioned in the article but it smells strongly of Montana Power Co.

Having seen the area to be flooded, it seems to me that to picture it as a fertile valley would be a little out of line because most of the farms have been abandoned with mostly tumbled down shacks left.

I think the census taker should recheck his count and I'm sure he would find that

1,300 is too large a figure for the people who would be flooded out. Most of the people left there would be happy to move if they were offered a few dollars for their barren and almost worthless land.

Why Governor Babcock favors Libby Dam and not Knowles is not too hard to see as Libby Dam is outside the area dominated by Montana Power Co. and it looks to me as if he is being led around by the nose.

He may look like a hero to some people but I'm not one of them because I don't see how he can be sincere in favoring Libby Dam and opposing Knowles.

There is no "timber above Knowles that would lose access" as you say, whereas Libby Dam would flood out large areas of timber that are right in the reservoir area.

It will actually cost more to relocate the Great Northern Railroad for Libby Dam than it would to relocate highways and railroads for Knowles.

I have always felt that U.S. News & World Report was a pretty reliable and authentic publication but this article has left me wondering.

Sincerely yours,

VIC KOFORD.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 8523. An act to authorize the conveyance of certain lands to the city of Saxman, Alaska; and

H.R. 8654. An act to terminate a restriction on use with respect to certain land previously conveyed to the city of Fairbanks, Alaska, and to convey to said city the mineral rights in such land.

ENROLLED JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled joint resolutions, and they were signed by the Acting President pro tempore:

S. J. Res. 120. Joint resolution providing for the recognition and endorsement of the Seventeenth International Publishers Congress; and

H.J. Res. 976. Joint resolution making a supplemental appropriation for the fiscal year ending June 30, 1964, for disaster relief, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Interior and Insular Affairs:

H.R. 8523. An act to authorize the conveyance of certain lands to the city of Saxman, Alaska; and

H.R. 8654. An act to terminate a restriction on use with respect to certain land previously conveyed to the city of Fairbanks, Alaska, and to convey to said city the mineral rights in such land.

REPORT ON WEAKNESSES IN REGIONAL PAYROLL ACTIVITIES, POST OFFICE DEPARTMENT

The ACTING PRESIDENT pro tempore laid before the Senate a letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on weaknesses in regional payroll activities, Post Office Department, dated March 1964 which, with the accompanying report, was referred to the Committee on Government Operations.

INVITATION TO NATO PARLIAMENTARIANS' CONFERENCE

The ACTING PRESIDENT pro tempore laid before the Senate a communication from Georg Kliesing, President of the NATO Parliamentarians' Conference, of Paris, France, inviting the Senate to designate a delegation to that organization's 10th Annual Conference, to be held in Paris, during the week of November 16 of this year, which was referred to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

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

By the ACTING PRESIDENT pro tempore:

The petition of Francisco Cepero, of Santurce, P.R., praying for a redress of grievances; to the Committee on the Judiciary.

THE EARTHQUAKE DISASTER IN ALASKA

The ACTING PRESIDENT pro tempore laid before the Senate a communication from Turgut Menemencioglu, Ambassador from Turkey, conveying, on behalf of the Senate of the Turkish Republic, its feelings of deep sympathy occasioned by the recent earthquake disaster of Alaska, which was ordered to lie on the table.

The ACTING PRESIDENT pro tempore laid before the Senate a communication from Chung Yul Kim, Ambassador from Korea, transmitting, on behalf of the National Assembly and the people of the Republic of Korea, their deepest sympathy for the disaster caused by the earthquake in Alaska; which was ordered to lie on the table.

CONCURRENT RESOLUTION OF SOUTH CAROLINA LEGISLATURE

Mr. JOHNSTON. Mr. President, I wish to bring to the attention of the Senate a concurrent resolution coauthored by South Carolina State Senators Charles C. Moore, of my home county of Spartanburg, and Edward McIver Leppard, of Chesterfield County, memorializing the Department of Agriculture to render such financial assistance to the peach growers of Spartanburg County and other areas of the State as may be authorized by law for disaster areas.

Mr. President, for the information of the Senate, South Carolina's peach crop this year has been almost completely wiped out because of two untimely freezes. The resulting loss, approximately $20 million, is disastrous to the peach growers of South Carolina and also our neighboring State of Georgia. In this respect, the Federal programs providing for crop insurance and for disaster assistance, especially low interest rate emergency loans, are most helpful.

I would like to state at this point that Secretary of Agriculture Orville Freeman has been 100-percent cooperative in bringing all available assistance to the farmers of South Carolina. The very first day of the freeze I called the Department to ask for assistance and was advised that Agriculture officials would be on the job to help South Carolina farmers that very afternoon.

Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, together with my remarks, this very brief resolution concerning assistance to the peach growers of South Carolina, which I send to the desk for appropriate reference.

There being no objection, the concurrent resolution was referred to the Committee on Agriculture and Forestry, and, under the rule, ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 793

Concurrent resolution memorializing the Department of Agriculture of the United States to render such financial assistance to the peachgrowers of Spartanburg County and other areas of the State as may be authorized by law for disaster areas

Whereas the growing of peaches in the State of South Carolina is a major industry, and particularly so in Spartanburg County; and

Whereas with the recent warm weather, the fruit trees were in a state of budding which rendered them extremely susceptible to excessive cold; and

Whereas the unusually low temperatures of the last few days have, according to the latest estimate, virtually destroyed the entire crop in Spartanburg County and have left other portions of the State with the prospects for a full crop materially reduced; and

Whereas the general assembly believes that, unless some financial assistance is rendered these peachgrowers by the Federal Government, undue hardships will result and in many cases growers will suffer irreparable financial setbacks: Now, therefore, be it

Resolved by the senate (the house of representatives concurring), That the Department of Agriculture is hereby memorialized to render at the earliest practicable time such financial assistance to the peachgrowers of the State of South Carolina as may be authorized by law, in order to assist them in overcoming the financial loss suffered in the last few days by the destruction of the fruit crop in Spartanburg County and damage to this crop in other areas of the State; be it further

Resolved, That a copy of this resolution be forwarded to the U.S. Department of Agriculture, Washington, D.C.; to each U.S. Senator from South Carolina; and to each Member of the House of Representatives in the Congress from the State of South Carolina.

PROHIBITION OF PUBLICATION OF OBSCENE MATERIAL — CONCURRENT RESOLUTION OF SOUTH CAROLINA LEGISLATURE

Mr. JOHNSTON. Mr. President, there has been forwarded to me by the

General Assembly of South Carolina a concurrent resolution memorializing Congress to enact such legislation as will prohibit the publication of obscene material.

The Senate Post Office and Civil Service Committee has actively cooperated with the U.S. Post Office Department to help stop the U.S. mails from being used to deliver filthy, corruptible literature and photographs. It is a difficult problem to cope with because ours is a free nation which has never demonstrated willingness to impose censorship of any form on our people. We have seen the excesses in censorship as conducted by foreign powers and we never want this to come our way. It is for this reason that the stamping out of pornographic material has been so difficult.

Mr. President, on behalf of myself, and my colleague, the junior Senator from South Carolina [Mr. THURMOND], I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, together with my remarks, this very brief resolution concerning the publication of obscene material, which I send to the desk for appropriate reference.

There being no objection, the concurrent resolution was referred to the Committee on the Judiciary, and, under the rule, ordered to be printed in the RECORD, as follows:

SENATE CONCURRENT RESOLUTION 794

Concurrent resolution memorializing Congress to enact such legislation as will prohibit the publication of obscene material

Whereas obscene and pornographic literature and photographs are flooding the Nation in an unrestrained manner; and

Whereas the utterance of such filth corrupts and contributes to the delinquency of the youth of our Nation: Now, therefore, be it

Resolved by the senate (the house of representatives concurring), That Congress be memorialized to enact without delay suitable legislation prohibiting the publication or utterance of obscene and pornographic literature and photographs; be it further

Resolved, That copies of this resolution be forwarded to the President of the United States, to each U.S. Senator from South Carolina, each Member of the House of Representatives of Congress from South Carolina, the Senate of the United States, and the House of Representatives of the United States.

CONCURRENT RESOLUTION OF SOUTH CAROLINA GENERAL ASSEMBLY

Mr. JOHNSTON. Mr. President, the South Carolina General Assembly has passed a concurrent resolution memorializing the Congress of the United States to propose an amendment to the U.S. Constitution making lawful the voluntary participation in daily prayer and the reading of scripture in the public schools.

There have been many bills introduced to the Senate calling for such a constitutional amendment. In fact, I am a coauthor of one such proposal now pending in the Judiciary Committee's Subcommittee on Constitutional Amendments. I am in general agreement with the philosophy that it is proper, lawful, and constitutional for children to voluntarily participate in daily prayers. I have stated before that the Supreme Court has gone too far in this field and I have openly urged people in my State and elsewhere to continue to pray and read scripture in public schools if they so desire.

Mr. President, on behalf of myself, and my colleague, the junior Senator from South Carolina [Mr. THURMOND], I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, together with my remarks, this very brief resolution concerning the voluntary participation in daily prayer and the reading of scripture in the public schools, which I send to the desk for appropriate reference.

There being no objection, the concurrent resolution was referred to the Committee on the Judiciary, and, under the rule, ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PROPOSE AN AMENDMENT TO THE U.S. CONSTITUTION MAKING LAWFUL THE VOLUNTARY PARTICIPATION IN DAILY PRAYER AND THE READING OF SCRIPTURE IN THE PUBLIC SCHOOLS

Whereas the general assembly has noted with great concern the recent decision of the U.S. Supreme Court declaring the offering of prayer to Almighty God in the public schools unconstitutional; and

Whereas it is not believed that this decision represents the will of the people of America; and

Whereas at least this body holds that the matter should be submitted to the electorate of the entire United States in order that by the exercise of the free ballot the will of the people may be determined as to whether or not daily prayer and the reading of the Scripture should be allowed in the public schools of the country; and

Whereas the general assembly further believes that the great majority of the people will vote in favor of paying this simple homage to Almighty God, which will result in inserting into the U.S. Constitution a mandate making it lawful to voluntarily participate in daily prayer and the reading of the Scripture in the public schools: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress is hereby memorialized to propose an amendment to the U.S. Constitution, which shall be amendment XXIV, as follows:

"AMENDMENT XXIV

"Notwithstanding any statute of the Congress or of any State of the United States or of any decision of any court to the contrary, it shall be lawful to voluntarily participate in daily prayer and the reading of Scripture in the public schools throughout the United States."

Be it further resolved, That a copy of this resolution be forwarded to the President of the Senate of the Congress, to the Speaker of the House of Representatives of the Congress, to each U.S. Senator from South Carolina and to each Member of the House of Representatives in the Congress from South Carolina.

INEZ WATSON,
Clerk of the House.

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. JORDAN of North Carolina (for himself and Mr. ERVIN):

S. 2714. A bill for the relief of Flor Franco Guillermo and Erlindo Franco Guillermo, Jr.; to the Committee on the Judiciary.

By Mr. CANNON:

S. 2715. A bill providing for the sale at public auction of standard silver dollars now held in the Treasury; to the Committee on Banking and Currency.

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

By Mr. SMATHERS:

S.J. Res. 166. Joint resolution proposing an amendment to the Constitution of the United States relative to permitting certain forms of devotional exercises in public or governmental schools, institutions, or places, and to preserving and protecting references or expressions of belief in or reliance upon God in public or governmental matters; to the Committee on the Judiciary.

(See the remarks of Mr. SMATHERS when he introduced the above joint resolution, which appear under a separate heading.)

SALE AT PUBLIC AUCTION OF STANDARD SILVER DOLLARS

Mr. CANNON. Mr. President, I introduce for appropriate reference a bill which would provide for the sale at public auction of standard silver dollars now held in the Treasury.

Events of recent weeks during which the silver dollars in the Treasury fell from $25 million to $3 million in the space of a month which ended on March 25, are well known to this body.

The Appropriations Committee of the Senate will soon have before it legislation to restore $1,975,000 which had been deleted by the House from the Treasury request for an additional mintage of silver dollars.

I share with my colleagues from the West the grave concern which has been expressed by the Western States, for the silver dollar has been a symbolic and necessary part of the commerce of the West.

It has become clear that hoarding and speculating have diminished the supply but I feel strongly that if the Congress will authorize additional mintage the speculators will be thwarted and these silver dollars again will be placed in commerce.

This is the matter which will be considered by the Appropriations Committee shortly. However, the question now arises as to what to do with the remaining $3 million silver dollars which because of their antiquity have great value to collectors. The purpose of my bill is to authorize the Secretary of the Treasury, at his discretion, to sell certain numbers, as he may determine, to collectors at public auction. Such action would assure that the profit which would accrue from such sale would be used to solve this coinage crisis. Moneys are needed for another mint and for the costs involved in the manufacture of additional coins. The public auctions called for by this legislation would help to raise a good share of such funds.

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

The bill (S. 2715) providing for the sale at public auction of standard silver dollars now held in the Treasury, was received, read twice by its title, and referred to the Committee on Banking and Currency.

SCHOOL PRAYER, BIBLE READING, AND REFERENCE TO A RELIANCE UPON GOD—CONSTITUTIONAL AMENDMENT

Mr. SMATHERS. Mr. President, in this afternoon's Washington Evening Star, there appears a news story concerning the efforts of a Baltimore, Md., mother to eliminate the words "under God" from the Pledge of Allegiance of the United States.

This is the same lady who last summer won the elimination of school prayers and Bible reading from the public schools of this country—a decision which, I might add, has caused great alarm and concern throughout the whole of the United States. Several Members of the Congress—both in this body and in the House of Representatives—have introduced joint resolutions providing for a constitutional amendment to make it crystal clear that it is the intent of the Congress of the United States that this effort, on the part of some in this country—sincerely motivated I am sure—to litigate God out of our public life is unconstitutional.

I think this is an appropriate time to be discussing this subject, as it comes in the midst of a prolonged debate on the subject of civil rights. Mr. President, there is perhaps no greater right of Americans than that of the right of freedom of religion and the free exercise thereof.

This whole problem came to a head last June when the U.S. Supreme Court handed down their famous school prayer and Bible reading decision. The High Court ruled these to be unconstitutional. By this action, the Supreme Court of the United States has seen fit to place an interpretation on the Constitution to the effect that Bible reading and prayer in public schools acknowledging dependence upon the Almighty God may not be rendered even though it is optional, and not compulsory, with the individual pupil in a school.

The first amendment to the Constitution declares that:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

As pointed out by Justice Potter Stewart in his dissenting opinion in the two school prayer cases last summer, as a matter of history, the first amendment was adopted solely as a limitation upon the newly created National Government. The events leading to its adoption, he stated, strongly suggest that the "Establishment clause" was primarily an attempt to insure that Congress not only would be powerless to establish a national church, but would likewise also be unable to interfere with existing State establishments.

This was the case until the adoption of the 14th amendment, or more properly, the Supreme Court's decision in the case of Cantwell against Connecticut. For in that case, the Court stated that:

> The first amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The 14th amendment has rendered the legislatures of the States as incompetent as Congress to enact such laws.

It is noteworthy, Mr. President, that in the case of Everson against Board of Education, the Supreme Court declared:

> State power is no more to be used to handicap religions, than it is to favor them.

The decision went on to state:

> To hold that a State cannot consistently with the 1st and 14th amendments utilize its public school system to aid any or all religious faiths or sects in the dissemination of their doctrines and ideals does not manifest a governmental hostility to religion or religious teachings. A manifestation of such hostility would be at war with our national tradition as embodied in the first amendment's guarantee of the free exercise of religion.

The decision in the two school prayer cases handed down by the Supreme Court seems to me to strike a death blow at these very concepts. For under the Court's decision, not even voluntary Bible reading and recitation of the Lord's Prayer is to be considered as constitutional. I do not believe that founders of our Great Republic meant for this to be the case.

The majority of the Court, in the June 17 decision, declared that parents who want their children exposed to religious influences can adequately fulfill that wish off school property and outside school time. But, as Justice Stewart so ably pointed out, this bit of argument seriously misconceives the basic constitutional justification for permitting the school prayer exercises at issue in the two cases decided by the Court.

The typical compulsory State education system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, the Justice stated, religion is placed at an artificial and State-created disadvantage. Under these circumstances, I cannot see how such Bible reading and the recitation of the Lord's Prayer for those who want them can be prohibited if the school systems of this land of ours are truly to be "neutral" in the matter of religion.

The proposed legislation which I introduce today calls for the amending of the Constitution of the United States so as to make crystal clear the intent of the Congress of the United States, representing the people of the United States, that voluntary Bible reading and the recitation of the Lord's Prayer in the public schools of the United States shall be constitutional.

The joint resolution which I introduce today also provides for the constitutionality of all references to a belief in or reliance upon God, or any invocation of the aid of the Divine Maker in any governmental or public document issued by the United States or upon any of this country's coins or currency and obligations. I have done this since it is not beyond the realm of possibility that a court test may well be made one of these days on this very point. Certainly the great majority of the American people want the motto "In God We Trust" to continue to be on our coins and currency.

I have also added to this legislation a section pertaining to the spending of Federal funds to employ chaplains for the armed services of our country, since it is also not impossible that someday the Court will rule that this, in itself, is unconstitutional since it violates the establishment clause of the first amendment. Some might point out that the use of Federal tax dollars for this purpose implies governmental sanction of some particular religious faith or faiths.

But, just as Justice Stewart so ably pointed out in his opinion, the failure on the part of the Federal Government to provide our servicemen and women with chaplains of the various religious faiths could be constituted by a lonely soldier on a faraway outpost as outright denial of his right to free exercise of his freedom of religion. This denial of a chaplain would in effect constitute a prohibition of the soldier's free exercises of his religion.

Mr. President, several Senators have introduced legislation similar to this which I propose today. As far as I can ascertain, none of the bills so far introduced have combined all of the sections which are included in mine. The gentleman from New York [Mr. BECKER] has introduced, in the other body, legislation very much like that which I introduce today.

At this point, I ask unanimous consent that the text of my joint resolution be printed so that my colleagues will have an opportunity to study it.

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

The joint resolution (S.J. Res. 166) proposing an amendment to the Constitution of the United States relative to permitting certain forms of devotional exercises in public or governmental schools, institutions, or places, and to preserving and protecting references or expressions of belief in or reliance upon God in public or governmental matters introduced by Mr. SMATHERS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

> Whereas the Supreme Court of the United States has rendered an interpretation of the Constitution of the United States to the effect that Bible reading and prayer in public schools acknowledging dependence upon God may not be engaged in even though participation therein is optional, and not compulsory, with the individual pupil in the school; and
>
> Whereas this Nation has a history of strong dependence upon the divine guidance of God, and the Presidents and national leaders of our country have acknowledged time and again the grace of God in sustaining and blessing our Republic; and
>
> Whereas it would appear that, as a result of this interpretation of the Constitution by the Supreme Court, many of our children, this Nation's greatest resource, will be denied a beneficial source of moral inspiration, affirmatively desired by them and their parents, and of enlightenment concerning the spiritual heritage of our Nation; and

Whereas it is a fact that each President of the United States, before entering upon the duties of his office, takes an oath requesting the divine assistance of God; that each member of the Supreme Court of the United States now occupying that eminent position took a similar oath requesting the help of God; that the Senate and the House of Representatives of the United States and most or all of the legislative bodies of the several States, through their appointed chaplains, open their sessions with a prayer to God asking for guidance, and likewise the sessions of the Supreme Court are declared open with a short ceremony, the final phrase of which invokes the grace of God; that every National, State, and local official has similarly taken an oath requesting the assistance of God; that the coins and legal tender of America bear the official inscription "In God We Trust", that the State flags of several of the States also bear the official inscription "In God We Trust"; that our national pledge of allegiance to the flag bears the acknowledgment "One Nation, Under God"; that every juror and every witness in any proceeding in our judicial system, local, State, and Federal, repeat after their oath "So Help Me God"; and that chaplains are appointed for duty with the Armed Forces of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. No provisions of this Constitution shall be construed to prohibit the conduct of any devotional exercise consisting of or including the offering of any invocational prayer, the reading of any portion of the Holy Bible or other sacred writing, or the rendition of any anthem, hymn, or other religious musical composition, as a part of the regularly scheduled activities of any governmental or public school, institution, or place, if participation in such exercise is made available on a voluntary basis and participation in the selection of any such prayer, writing, or composition is made available on equal terms to all religious bodies or sects requesting participation therein whose adherents are respresented among the persons properly taking part in such activities.

"SEC. 2. No provision of this Consitution shall be construed to prohibit any reference or expression of belief in or reliance upon God or a Supreme Being, in any governmental or public document, oath, proceeding, activity, or ceremony, or in any public or governmental school, institution, or place, or upon any coin, currency, or obligation of the United States. No such provision shall be construed to prohibit the appointment of any chaplain by the Senate or the House of Representatives of the United States or any legislative body of any of the several States, or for duty with the Armed Forces of the United States.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

PROPOSED AMENDMENT TO S. 1658 (AMENDMENT NO. 472)

Mr. KUCHEL. Mr. President, I submit, for appropriate reference, an amendment to S. 1658, a bill to authorize construction of the central Arizona project.

My amendment relates to water shortages in the Colorado River. It is patterned after an act of the Arizona Legislature, enacted in 1961, which declares that in the event of shortages, the rights of the proposed central Arizona project shall be junior to those of existing projects in Arizona. My amendment extends this principle to the protection of existing uses in Arizona and Nevada, and to 4,400,000 acre-feet of existing uses in California. California now uses over 5,100,000 acre-feet from the Colorado, but the Supreme Court decree in Arizona against California limits California to 4,400,000 acre-feet of the first 7,500,000 acre-feet available. Of this, the decree apportions Nevada 300,000 and Arizona 2,800,000. Arizona now uses less than 1 million.

Article II(B)(3) of the decree provides that if the supply is less than 7,500,000 acre-feet, the Secretary shall apportion the shortage in accordance with the Boulder Canyon Project Act "or other applicable Federal statutes." This reflects the Supreme Court's opinion which held that Congress had retained full power to instruct the Secretary how shortages shall be apportioned. My amendment, if adopted, would be the "applicable Federal statute," implementing the decree, not amending it.

The principle, protection of existing uses, is embodied in the water law not only of Arizona but of every State of the Colorado River Basin, as well as the Federal reclamation law.

Secretary Udall has proposed a Pacific Southwest plan, which would include a central Arizona project, but no bill providing for the proposal is before the Senate. If and when one is introduced, I will offer a similar amendment to that bill.

Mr. President, I believe this is a good amendment. I ask unanimous consent that the amendment lie on the desk for the next 2 days for the possibility of its having coauthors.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will lie on the desk, as requested by the Senator from California.

The amendment was referred to the Committee on Interior and Insular Affairs.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 7, 1964, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 120) providing for the recognition and endorsement of the 17th International Publishers Congress.

ARRANGEMENTS FOR CEREMONY IN THE CAPITOL ROTUNDA IN CONNECTION WITH THE LYING-IN-STATE OF THE BODY OF GEN. DOUGLAS MACARTHUR

Mr. HUMPHREY. Mr. President, I have just been informed by the Sergeant at Arms of the Senate as to the arrangements for the ceremony in the Capitol rotunda in connection with the lying in state of the body of Gen. Douglas MacArthur.

On Wednesday, April 8, 1964, at 3 p.m., the Senate committee and Members of the Senate will depart the Senate Chamber to take up position in the rotunda of the Capitol prior to the arrival of the remains and the procession which is scheduled for approximately 3:10 p.m.

After the remains are placed in the rotunda, the Chaplain of the Senate, Rev. Frederick Brown Harris, and the Chaplain of the House of Representatives, Rev. Bernard Braskamp, will offer eulogies. President Johnson will then place a wreath on the catafalque to be followed by the offering of benediction.

At the conclusion of the benediction, the rotunda will be closed for approximately 1 hour after which the remains will be available for viewing by the general public until 11 a.m. on Thursday, April 9, 1964.

At 1 p.m. on Thursday, April 9, 1964, the remains will be removed from the rotunda and taken in procession to the Military Air Transport Terminal for departure to Norfolk, Va.

Mr. President, I ask unanimous consent that the Washington schedule of events in connection with the lying-in-state of Gen. Douglas MacArthur for Wednesday, April 8, and Thursday, April 9, be printed in the RECORD at this point in my remarks.

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

WASHINGTON SCHEDULE OF EVENTS IN CONNECTION WITH LYING-IN-STATE OF GENERAL MACARTHUR

WEDNESDAY, APRIL 8, 1964

1. Train arrives Union Station, 1:25 p.m.
2. Ceremony at station, 2 p.m.
3. Motorcade to 16th and Constitution Avenue, 2:10–2:25 p.m.
4. Transfer to caisson, 2:25 p.m.
5. Procession to Capitol, 2:30–3:10 p.m.
6. Ceremonies at rotunda, 3:10–3:40 p.m.

Remains available for public viewing from 4 p.m., Wednesday, April 8, 1964, until 11 a.m., Thursday, April 9, 1964.

THURSDAY, APRIL 9, 1964

1. Remains out of state, 1 p.m.
2. Procession with caisson to 12th and Constitution Avenue, 1:10–1:40 p.m.
3. Casket transfer, 1:40 p.m.
4. Motorcade to MATS Terminal, Washington National Airport, 1:45–2 p.m.
5. Ceremonies MATS, 2 p.m.
6. Aircraft departure, 2:20 p.m.

Mr. HUMPHREY. Mr. President, it should be noted that on Wednesday, April 8, 1964, Hon. CARL HAYDEN, President pro tempore of the Senate; Hon. MIKE MANSFIELD, majority leader of the Senate; and Hon. EVERETT MCKINLEY DIRKSEN, minority leader of the Senate, are to participate in the procession forming at 16th Street and Constitution Avenue Northwest, and proceed to the rotunda for the ceremonies in connection with the placing of the remains in state.

These Senators will be picked up at the Senate Wing of the Capitol by escort officer, Army Lieutenant Colonel Green, at 2:10 p.m., and transported in military

vehicles to 17th Street and Constitution Avenue where they will join the procession which is scheduled to depart 16th Street and Constitution Avenue NW. at 2:30 p.m.

The convoy is scheduled to arrive at the East Front Capitol stairs at 3:10 p.m. and the members of this group will be prepositioned in the rotunda, with the leaders of the House of Representatives, prior to the arrival of the remains, family and the President.

Mr. President, I wish this information to be printed in the RECORD so that all Senators may be informed as to the details and the plans for the ceremony tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BOGGS in the chair). The Senator from Rhode Island will state it.

Mr. PASTORE. Mr. President, do I correctly understand that there is unanimous-consent order to recess until tomorrow at 10 o'clock a.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. PASTORE. Mr. President, I move, in accordance with that order, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 9 o'clock and 37 minutes p.m.) the Senate took a recess, under the order previously entered, until tomorrow, Wednesday, April 8, 1964, at 10 o'clock.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 7 (legislative day of March 30,) 1964:

DIPLOMATIC AND FOREIGN SERVICE

AMBASSADORS

Jack Hood Vaughn, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

Mrs. Katharine Elkus White, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Henry L. T. Koren, of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Rutherford M. Poats, of Virginia, to be Assistant Administrator for the Far East, Agency for International Development.

HOUSE OF REPRESENTATIVES

TUESDAY, APRIL 7, 1964

The House met at 12 o'clock noon.

Rev. Lowell Russell Ditzen, D.D., executive secretary and director, the Council for the National Presbyterian Church and Center, offered the following prayer:

Almighty God, our petition is for breadth; breadth enough to respectfully evaluate the position of those which differs from our own; breadth sufficient to enable us to compromise without playing traitor to our convictions; breadth wide enough to be considerate of each member of the human family in keeping with our committed principle of "liberty and justice for all."

And for courage we pray; courage that is honest enough to acknowledge our own faults and weakness; courage that is humble enough to learn and grow; courage that is strong enough to exchange the good for the better and the better for the best.

Yea, Lord, for breadth and for courage this day we pray. Bless our Nation and all our people, through Jesus Christ our Lord. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

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

H.J. Res. 976. Joint resolution making a supplemental appropriation for the fiscal year ending June 30, 1964, for disaster relief, and for other purposes.

PERMISSION TO DECLARE A RECESS ON WEDNESDAY AND THURSDAY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday and Thursday for the Chair to declare a recess subject to the call of the Chair.

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

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

OUTLET STORES, INC.

The Clerk called the bill (H.R. 2300) for the relief of the Outlet Stores, Inc.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Outlet Stores, Incorporated, of Denver, Colorado, the sum of $12,644.41 in full settlement of its claims against the United States for losses sustained as the result of the erroneous award of a sales contract for a quantity of snowshoes pursuant to invitation No. 12-036-S-58-38 of the Jeffersonville Quartermaster Depot to another company notwithstanding the fact that the bid of the Outlet Stores, Incorporated, was higher than that company: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum therefore shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 6, strike "$12,644.41" and insert "$1,000".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DR. AND MRS. ABEL GORFAIN

The Clerk called the bill (H.R. 2706) for the relief of Dr. and Mrs. Abel Gorfain.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

CHARLES WAVERLY WATSON, JR.

The Clerk called the bill (H.R. 2728) for the relief of Charles Waverly Watson, Jr.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

JOHN F. MACPHAIL, U.S. NAVY

The Clerk called the bill (H.R. 5145) for the relief of John F. MacPhail, lieutenant, U.S. Navy.

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

ESTATE OF J. W. GWIN, SR.

The Clerk called the bill (H.R. 2747) for the relief of the estate of J. W. Gwin, Sr.

Mr. ELLSWORTH. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

WITOLD A. LANOWSKI

The Clerk called the bill (H.R. 3757) for the relief of Witold A. Lanowski.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Air Force is authorized and directed to pay, out of current appropriations